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Are NMEs Our Enemies?
Non-Market Economies and Western Trade Policies

Cynthia Michalski Horne

A dissertation submitted in partial fulfillment of the requirements for the degree of

Doctor of Philosophy

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Program Authorized to Offer Degree: Department of Political Science

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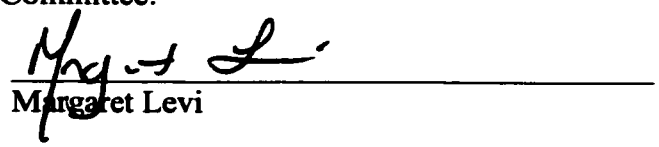

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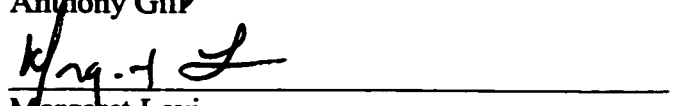

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Abstract

Are NMEs Our Enemies? Non-Market Economies and Western Trade Policies

Cynthia Michalski Horne

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Non-market economies (or Communist countries) are subjected to unusually high levels of Western trade protection. Why do non-market economy exports face higher levels of trade protection than other country groups, including other developing countries? Why have patterns of trade protection against non-market economies remained largely unchanged in the post-Cold War period despite several formal trade rule changes designed to facilitate access to U.S. and European markets? Why have the U.S. and European Union improved the fairness and transparency of their trade laws, yet both have failed to apply the changes to actual trade with non-market economies? This dissertation analyzes the trade impediments that former Communist countries face integrating into the international political economy.

Traditional international and comparative political economy explanations for trade protection are tested and refuted as explanations for trade discrimination against non-market economies. Instead, a theory of belief stasis and belief change is developed to account for patterns of trade discrimination. Longstanding cognitive beliefs about the

country of origin play an important role in explaining patterns of trade protection. Rational beliefs, developed during the Cold War about the particularly threatening nature of trade with non-market economies, continue to affect the application of trade policies.

A variable new to economic theories is introduced -- belief certainty. This variable explains the dynamic of both belief stasis and belief change. Beliefs function as information discounters, varying in their discounting effects according to the certainty with which they are held. Deriving belief certainty from the trade related institutional incentives faced by a country, this project shows how degree of belief certainty affects decision-making by Western trade agencies. Thinking about beliefs in terms of the certainty with which a belief is held allows for an explanation of both why and how beliefs affect trade policy-making. It provides a consistent explanation for seemingly contradictory trade policies enacted by the West toward non-market economies. The United States and European Union's treatment of non-market economies in the area of anti-dumping trade policy is analyzed in order to provide empirical support for the argument.

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Chapter 1: Transitions and Trade

> Pity the unpopular Russians. In July, Mexico elects its first president from outside the ruling party; *The Economist* magazine labels it a 'real democracy.' Russia elects a president from the political opposition in 1991, then holds no fewer than five competitive generally free national elections in the following years; *The Economist* calls it a 'phony democracy.' Colombia has a problem with organized crime, and Washington gives its government $1.3 billion to help fight the drug lords. Russia also has a problem with organized crime, and American politicians sternly lecture Moscow not to expect any more aid until it cleans up its act. An undercover U.S. operation finds several Mexican banks laundering drug money in the United States, and Washington apologizes to the Mexicans for conducting sting operations on their territory. An American bank allegedly launders money for Russian organized criminals, and a leading senator accuses the Russian government of being 'the world's most virulent kleptocracy.' When the Asian crisis scares investors away from the Brazilian market and the real collapses, commentators declare it a bump in the road. When the Asian crisis scared foreign investors away from the Russian market and the ruble collapses, commentators declare the crash proof of the failure of liberal economic reform in Russia.... As readers of the Western press know, there are no business men in Russia only mafiosi; no democrats, only corrupt politicians; no citizens, only an impoverished, nationalistic mass. Members of the Russian middle class are often discouraged to learn, upon picking up Western papers, that they do not yet exist.
> --Daniel Treisman, 2000. "Blaming Russia First." *Foreign Affairs*, 79:6, pp. 146-7.

Introduction

Russia and other economies in transition are not simply developing countries, but *former Communist* developing countries. The Communist institutional legacy, with all its economic, strategic, social, and political connotations, affects the way these countries are perceived by others. The extended quote from Treisman above illustrates several issue areas in which Russian actions are framed more negatively than the same actions in other developing countries. The discourse used to interpret Russian actions bears the scars of

the Cold War ideological and strategic division between the West and Communist countries.

In this project I examine the extent to which beliefs about the different and threatening nature of trade relations with Communist and former Communist countries affect their ability to re-enter the international system. Specifically, I examine the conditions under which Western Cold War beliefs about non-market economies currently function as barriers to trade with these transitional economies. The title of this project asks are NMEs (non-market economies) our enemies? According to the words and deeds of both the U.S. Department of Commerce and the European Commission's Trade Policy Directorate with respect to trade policy, the answer is yes.[1]

Trade is critical to the success of the economic and political reforms in former Communist countries. Free trade with the West is vital as both a source of revenue and a conduit of market discipline to former centrally planned industries. The U.S. Department of Commerce argues that "international trade helps ensure political stability in foreign nations, promotes better international understanding and higher standards of living, and improves bilateral relations through the interchange of products, ideas, and culture" (U.S. Department of Commerce 2000a). Capitalist and democratic institutions are assumed to be mutually reinforcing. The West's promotion of economic development and international trade in transitional economies is therefore presumed to have positive spillover effects on their political systems, thereby aiding in the process of democratization (Lipset 1994; Przeworski 1985; Przeworski 1991; Rueschmeyer,

[1] The title to this project is an actual quote from an interview with a U.S. Department of Commerce, International Trade Analyst, who said that instead of calling non-market economies by their commonly used acronym NMEs, they are commonly referred to as "enemies." Phone interview, February 14, 2001.

Stephens and Stephens 1992). In fact, trade liberalization may represent the most effective form of Western assistance to these transitional economies. Moreover, the ability of former Communist countries to participate in the international political economy is a good indicator of the depth and scope of their transitions.

Official United States (U.S.) and European Union (EU) policies stress an important and explicit role for trade in supporting the political and economic reform efforts in Central and Eastern Europe, the former Soviet Union, and China. Starting with President George Bush and continuing through the Clinton administration, the normalization of economic and trade relations with non-market economies has been a recurrent theme (Bush 1990; Clinton 1995; U.S. Department of Commerce 2000b). Vice President Al Gore proclaimed, "Trade not aid [is] the ultimate guarantor of economic growth in the former Soviet Union" (Gore 1995). The G-7 announced, "We recognize the progress of many countries in transition and their need for improved market access" (*U.S. Department of State* 1995).

The European Union has explicitly recognized the link between market access and modernization in these countries. As Vice President of the European Commission and the EU's Chief Trade Negotiator, Sir Leon Brittan stated, "Global integration through trade and investment are essential to achieving increased prosperity, sustainable economic growth and social security in the form of job creation [sic]... A liberal trade regime is a fundamental element in the creation of a cooperative, inclusive society both within Russia, and in Russia's relations with the rest of the world" (Brittan 1997a). The new EU-China partnership agreement also specified the importance of "integrating China further in the world economy by bringing it more fully into the world trading system"

(European Commission 1998a). The West understands the importance of trade to the success of the transitions in former Communist countries, and appears to support their efforts. How these countries are treated under Western trade law is critical to their domestic reform efforts and international integration.

Non-Market Economies (NMEs) and Trade

During the Cold War, the United States and the countries of the European Union presumed that Communist countries or so called "non-market economies" posed an economic threat, and devised special trade rules to address this perceived threat.[2] The term non-market economy is both a political and an economic designation. The official U.S. Department of Commerce definition of the term "non-market economy" means "any foreign country that the administering authority determines does not operate on market principles of cost or pricing structures, so that sales of merchandise in such a country do not reflect the fair value of the merchandise."[3] The General Agreement on Tariffs and Trade (GATT) defined a non-market economy as "a country which has a complete or substantially complete monopoly of its trade and where all domestic prices are fixed by the state" (Bael and Bellis 1990, 66).

In practice NME only refers to countries that were or are Communist. Moreover it refers to countries that were actively part of Soviet or Chinese alliances. As such, Yugoslavia was never classified as a NME, despite its centrally planned economy.

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[2] Non-market economy is a classification given to Communist countries that were part of the Eastern Bloc as well as China. The traditional list includes: Albania, Bulgaria, China, the Czech Republic, Hungary, Poland, Romania, the Republic of Slovakia, and the republics of the Former Soviet Union. Although the state controlled economic activity in Yugoslavia, it was never classified as a non-market economy. Moldova and Vietnam are often included on the lists of NMEs as well.

Communist regimes in Latin America or Africa were also never classified as NMEs. While new terms like transitional economies or non-market economies in transition are being used by some government and international organizations to refer to these countries, the official term still used by both United States and European Union trade agencies in referring to Communist countries is "non-market economies" (NMEs).

The special NME designation allowed the United States and EU to apply different trade rules to Poland, Russia, and China than to developing countries like Bangladesh, Hong Kong or Brazil. These different rules, especially anti-dumping trade remedy laws, resulted in more restrictive treatment of non-market economy exports than those from other countries. Now, almost a decade since the end of the Cold War, some of these rules have changed but the discriminatory trade patterns continue. Given the important and politicized role of trade to the economic and political transitions in Eastern Europe and the former Soviet Union, and the West's stated interest in furthering those transitions, the continued discriminatory treatment of imports from these transitional economies remains puzzling.

This project asks two questions. First, why do the U.S. and EU continue to discriminate against imports from NMEs? Second, why are changes to the formal trade rules as applied to NMEs being implemented in some but not most cases? These questions are interesting for three reasons. First, the formal institutions and rules governing trade with Communist countries have actually changed in the post-Cold War period, but in most cases the outcomes have not and the process of administering the laws has not. Second, continued discrimination hinders the ability of these countries to

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[3] Omnibus Trade and Competitiveness Act, 1988. Pub. L. 100-418, 1316 (b), 102 Stat. 1107, 1187.

integrate successfully into the international political economy. Examining one aspect of the transition process, namely integration into the international trading system, has crucial policy implications for former Communist countries. Third, there are some important differences in the behavior of the U.S. and European Union toward certain former Communist countries, with respect to trade policy. Can the similarities and differences between the U.S. and EU be accounted for in addition to their seemingly contradictory trade policies?

Anti-dumping Laws: What they are and why they are politically important

Of particular trade importance to NMEs are anti-dumping laws. Anti-dumping laws are trade remedy regulations, approved and monitored by the World Trade Organization (WTO), designed to redress trade at less than fair value or "normal value." According to Article 2.1 of the World Trade Organization Anti-Dumping Agreement (Article VI, Section 1 of the GATT) the definition of dumping reads as follows:

> A product is considered as being dumped, i.e. introduced into the commerce of another country at less than its normal value, if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country" (World Trade Organization 1994).[4]

This law legally empowers countries to apply tariffs to imports that are selling at "less than normal value" in order to protect domestic firms from unfair pricing practices. The underlying belief behind anti-dumping laws is that dumped goods, or goods sold

[4] Article VI, Section 1 of the General Agreement on Tariffs and Trade (GATT) corresponds to Article 2.1 of the WTO. More often one will see references to Article VI in the literature and in U.S. and EU trade documents than to the WTO document (General Agreement on Tariffs and Trade 1970).

below normal value, can put suppliers selling at normal value out of business. In its most basic form normal value roughly equates to the price charged for like products in the home market or in the exporting country.[5] Simplified, dumping is found when export sales prices for commodity X are less than home market sales prices for commodity X (Jackson 1997, 251). While the definition of dumping might appear simple, determining what constitutes fair value is quite involved and in the case of non-market economies becomes exceedingly complicated.

The letter and spirit of GATT anti-dumping regulations resulted from international consensus about the primary intent and use of anti-dumping laws. In fact much of the wording of the GATT regulations was drawn directly from the national laws of the United States, Canada, Australia, and European Community members, to name a few. These laws specified the calculation of "less than fair value," transforming it into a quasi-legal procedure, with strict rules and guidelines informing economic calculations. However, there are some differences in the way each country has chosen to interpret the GATT definition of dumping and apply the trade regulations. Hence, this project will compare the United States and European Union's application of anti-dumping laws in order to draw out differences and similarities in their treatment of NMEs.

Anti-dumping cases are interesting to examine for four reasons. First, they are one of the most, if not the most, important and widely used trade remedy law in the international system (Economist 1999; Europe Information Service 2000c; Sanger 1998).

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[5] According to the EU "For the purpose of this regulation, the term 'like product' shall be interpreted to mean a product which is identical, that is to say, alike in all respects, to the product under consideration, or in the absence of such a product, another product which although not alike in all respects, has characteristics closely resembling those of the product under consideration" (EC No. 384/96; OJL 06/03/1996, Article 1 (4)).

For all countries except the United States almost all "unfair" trade cases are anti-dumping cases (Finger 1993,10). Developing countries, like India, Brazil, and Taiwan, have literally taken a page from developed countries' books by copying their anti-dumping laws and liberally applying them (Economist 2000; Tharakan 1999). Anti-dumping laws have been called the "cruise missiles of protection, that by flying low to the ground have escaped detection as protection by the conventional radar systems" (Staiger and Wolak 1994a, 104). The impact of anti-dumping cases on economic welfare is great. In 1995, the U.S. International Trade Commission estimated that removing anti-dumping orders would produce an economy wide welfare gain of $1.6 billion (U.S. International Trade Commission 1995). A recent study calculated that trade protection, anti-dumping being the most widely used variety, costs the European Union between 6-7% of its gross domestic product per year (Messerlin 2001).

Second, anti-dumping laws have been liberally applied to trade with non-market economies. They have a substantial trade effect, and have risen to the level of "high politics" in negotiations between former Communist countries and the West. There is a generalized feeling of discontent among trade officials in Central and Eastern Europe, the former Soviet Union, and China at what they perceive as the undermining of their export performance by anti-dumping actions and "discriminatory trade policies" (Chernomyrdin 1997; OECD 1994; OECD 1996). Vice Prime Minister Boris Nemtsov of Russia even refused to meet Sir Leon Brittan, the Vice President of the European Commission and its Chief Trade Negotiator, during Brittan's 1997 visit to Moscow in protest over the way Russia was treated in European anti-dumping cases (Agence Europe 1997d; Thornhill 1997). These countries are particularly upset at their continued differential labeling,

marking them as special trade threats (China Daily 1999; ITAR-TASS 2000; Moscow News 2001; Russian Economic News 1999a; Russian Economic News 1999b). On numerous occasions, China has protested its treatment under the anti-dumping laws and cited this as "a serious economic and political obstacle to the expansion of relations between the EU and China" as well as the United States (Agence Europe 1997a).

International institutions have also recognized the larger policy implications of anti-dumping laws. In Spring 2001, the European Bank for Reconstruction and Development explicitly condemned the U.S. and European Union's use of anti-dumping protection against Russian products, charging them with unfair methods of administering the laws (Moscow Times 2001). Anti-dumping has become such a politically charged volatile issue that it was carefully excluded from the Association Agreements signed between the EU and several East European countries, and from China's World Trade Organization membership negotiations. In sum, anti-dumping laws have diplomatic as well as trade implications, and are of importance to both the West and NMEs.

Third, the estimated lost trade costs to NMEs from anti-dumping cases are large. It has been calculated that 10% of total Polish industrial exports may have been affected by anti-dumping actions (OECD 1996, 20). It is estimated that anti-dumping duties cost Russia $500 million-$1 billion annually. Between 1998-2000, Russian steel producers incurred industry losses in excess of $1.5 billion due to the more than 50 anti-dumping investigations launched against them by various countries (Interfax News Agency 2001a). In addition, the duties resulting from Chinese anti-dumping investigations regularly exceed 100% of the value of imports from China (Santos and Vakerics 1994). In a recent anti-dumping case against Russian steel, Russia opted for a 70% reduction in

steel exports in order to stop the case, which seemed preferable to the estimated 200% tariff levels (Donlan 1999; Radio Free Europe/Radio Liberty Newsline Reports 1998).

These figures underestimate the actual cost to NMEs in terms of dumping duties and deterred trade. Anti-dumping laws have a "harassment effect" (Finger and Murray 1990; Prusa 1992; Staiger and Wolak 1994b). The mere filing of a case is often enough to scare foreign firms into cutting off their exports or raising their prices. For example, a World Bank study calculated that the filing of an anti-dumping case increases import prices of textile products by at least 10% before any official action is even taken (Destler 1992, 171). Many non-market economies limit the quantity or composition of their exports to the West because they fear dumping accusations and the ensuing trade reprisals. As a result, there is no way to calculate the total cost of anti-dumping laws to non-market economies because it is difficult to put a dollar amount on the trade deterring effects.[6] Given the debt burdens of these countries, this forgone trade revenue has substantial economic effects.

Fourth, anti-dumping cases are the least likely cases to find systematic political manipulation of the trade law (Finger et. al 1982). Anti-dumping laws are quasi-judicial in their highly legalistic structures, with strict rules and guidelines that conform to WTO standards. As the European Commission's Directorate General for Trade explained, "EU legislation on anti-dumping is a strict legal system which does not give very much room for discretion by the Commission when judging the various aspects of the cases" (Laurent 1996). Anti-dumping laws constitute a form of "secondary legislation" confirmed by European Court of Justice decisions in the case of the EU, and by the

International Court of Appeals in the United States. The strict domestic rules and guidelines combined with the standards imposed by the WTO Dumping Agreement remove much of the room for political considerations in anti-dumping determinations.

Other authors have found that political factors cannot explain anti-dumping use (Lott 1995). Finger argues that international political influences do not show up as significant and are "most soundly rejected" (Finger, Hall and Nelson 1982, 459). In the United States, the agencies charged with administering the anti-dumping laws are intentionally insulated from the pressures of Congress and special interest groups in order to depoliticize their application (Anderson 1993; Moore 1992). Even the U.S. President cannot legally override anti-dumping duties on policy grounds (Winters, Rubin and Bond 1998).

According to Cooper's use of high and low policy track distinctions, anti-dumping cases would be considered low track (Cooper 1973). They are established by law, according to precise administrative regulations and precedents, leaving little room for political manipulation. This "depoliticized" legal structure affords them a sense of legitimacy not enjoyed by the more overtly political high track policies. By contrast, Super 301, tariffs, the escape clause, or even Section 337 (intellectual property rights) would be considered high track policy because they can and are wielded against specific countries to further strategic trade agendas.[7] These "high track" rules leave significant

---

[6] The economics behind the harassment effect and its impact on the incentives facing non-market economy exporters and domestic producers of like products will be discussed in more detail in chapter 5.

[7] Section 201 of the Trade Act of 1974--the escape clause, provides relief to seriously injured domestic industries from fairly traded imports {1974 Act, *supra* note 2, §201, 19 U.S.C. §2251 (1982 & Supp. IV 1986)}; Section 301 of the Trade Act of 1974--dispute resolution, designed to enforce U.S. rights under trade agreements and combat unfair trade practices (Ch. 1, Title III of Trade Act 1974 as amended, 19

room for political discretion and possible manipulation. The legalistic "low track" anti-dumping laws are therefore the least likely case for a hypothesis based on international political considerations such as lingering antagonistic beliefs about non-market economies. Therefore, they are an interesting case to look for the systematic effects of beliefs on trade policy.

In sum, anti-dumping laws have important policy implications to the West and non-market economies. They are the subject of international disputes and possibly a substantial impediment to the integration of non-market economies into the international political economy. They are also the least likely case for political manipulation and a hypothesis looking at the causal role of beliefs.

Preliminary Evidence of Trade Discrimination: The Empirical Puzzle

Whether non-market economies are the target of Western trade discrimination is the subject of debate. The null hypothesis is that there is no trade discrimination and therefore no puzzle. A 1998 World Bank study reviewing the application of U.S. and EU unfair trade laws to non-market economies concluded that their treatment was fair, albeit different from other types of developing countries (Ehrenhaft et al. 1997). I assert this difference amounts to discrimination. These transitional economies are specially categorized and subjected to formal rules and informal procedures based on the presumption that they pose an extraordinary threat to Western industries. The difference in adjudication of non-market economies' anti-dumping cases results in more onerous information requirements, less transparency, and more disregard for the market

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U.S.C. §2411); and Section 337 of the Trade Act of 1930--Intellectual Property Rights protection (19

conditions operating in these economies than in cases involving similarly situated developing countries. This different treatment results in higher levels of trade protection against non-market economies.

Some figures will illustrate the magnitude of the trade effects. Between 1980-2000, NME imports accounted for 4% of U.S. total imports but 24% of anti-dumping cases. Between 1980-2000, NME imports accounted for 4.5% of EU total imports, but an average of 38% of anti-dumping cases. Looking at the post-Cold War period alone, NMEs comprised 40% of EU anti-dumping cases but 5% of imports. For the United States, NMEs comprised 24% of anti-dumping cases and 6.5% of imports. While imports from NMEs to the West have been steadily rising, there is no apparent relationship between change in import volume and anti-dumping cases, as evidenced in figure 1-1(U.S.) and figure 1-2 (EU).[8]

The pattern of trade volume relative to trade protection against NMEs is puzzling when compared to the patterns of trade volume and trade protection against other

Table 1-1: Imports from NMEs Relative to Trade Protection

	Percentage of Total Imports	Percentage of Total Anti-dumping Cases
United States, 1980-2000	4%	24%
United States, 1990-2000	6.5%	24%
European Union, 1980-2000	4.5%	38%
European Union, 1990-200	5%	40%

U.S.C. §1337).

[8] For calculations in the following figures I have used relative instead of absolute numbers. As such, I compared percentage total imports to percentage total anti-dumping cases. This was done to smooth out the yearly fluctuations in number of anti-dumping cases filed due to things like staffing, budgeting, or macroeconomic cycles. To make the time series data more comparable and to discern the relationships between trade protection by country groups, I have compared relative figures.

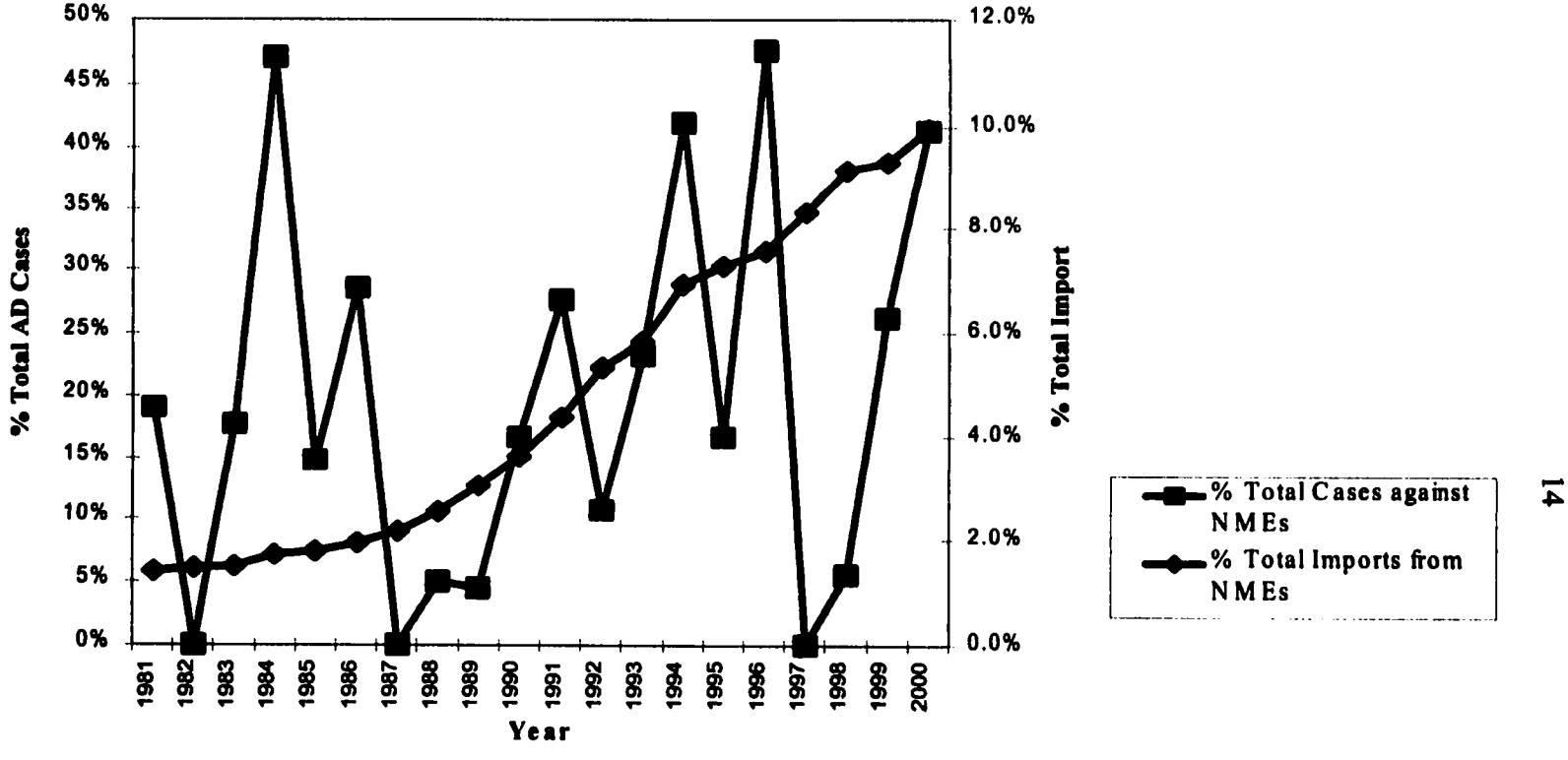

Figure 1-1: U.S. Imports Compared to Anti-dumping Cases, Non-Market Economies, 1981-2000

Note: 1980 data is omitted because NMEs accounted for 100% of cases in that year. Including 1980 skews the perspective of the graph.

Sources: International Monetary Fund, *IMF Direction of Trade Statistics Yearbook*, various years; and U.S. Department of Commerce, Import Administration, *Anti-dumping and Countervailing Duty Petitions Filed Since January 1, 1980,* www.ita.doc.gov/import_admin/records/stats/.

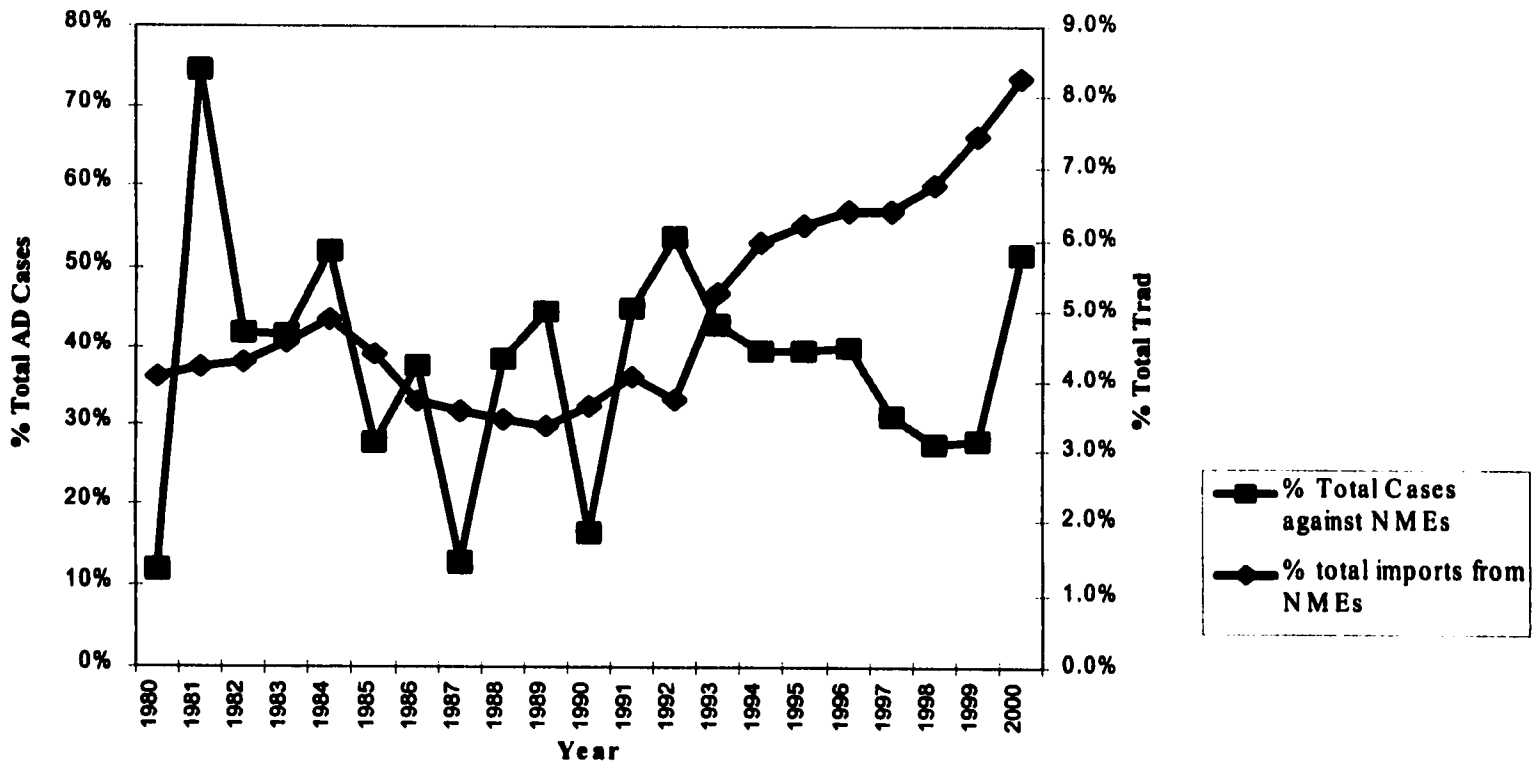

Figure 1-2: EU Imports Compared to Anti-dumping Cases, Non-Market Economies, 1980-2000

Sources: International Monetary Fund, *IMF Direction of Trade Statistics Yearbook*, various years; and European Commission, *Annual Report from the Commission to the European Parliament on the Community's Anti-dumping and Anti-subsidy Activities*, various years.

countries. One would roughly predict a direct positive relationship between trade volume and trade protection. As country A exports more goods to country B, the probability of country B using trade protection against country A increases. This is not necessarily a one to one correlation, simply a predicted positive relationship based on import volumes. If import volumes and import protection were graphed together, one would predict upward sloping regression lines. The scatter plots in figures 1-3 and 1-4 bear this out.[9]

In the case of most countries or country groupings, there is a direct positive relationship between import volume and import protection. For both the EU and the United States, as the percentage of total imports from country B increases, the percentage of anti-dumping cases involving country B also increases. This is the case for all country groupings except NMEs. In both figures, the linear regression lines plotting the ratio of percentage total anti-dumping cases to percentage total imports are slightly negative sloping for non-market economies. Looking only at the post-Cold War time period, the relationship between anti-dumping cases and import volumes does not change. Figures 1-5 and 1-6 bear out the same slightly negative linear regression lines for both United States and EU trade protection patterns against NMEs. Moreover, although China has increased its trade volume substantially to the United States in the post-Cold War period,

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[9] The comparative groupings are U.S. Department of Commerce constructed aggregates (Table 3-1).
South America: Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, Uruguay, Venezuela
Asian Newly Industrialized Economies (NICs): Hong Kong, Singapore, South Korea, Taiwan
Big Emerging Markets (BEM): Argentina, Brazil, Brunei, Hong Kong, India, Indonesia, Malaysia, Mexico, Philippines, Singapore, South Korea, South Africa, Taiwan, Thailand, Turkey.
Other Asian Countries: Afghanistan, Bangladesh, Bhutan, Brunei, Burma, Cambodia, India, Indonesia, Macao, Malaysia, Maldives, Mongolia, Pakistan, Philippines, Sri Lanka, Thailand
NMEs: Eastern Europe (Albania, Bulgaria, Czech Republic, Hungary, Poland, Romania, Slovakia), the Baltics (Latvia, Lithuania, Estonia), the former Soviet Republics (Russia, Belarus, Ukraine, Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Turkmenistan, Tajikistan, Uzbekistan) China, and Vietnam.
Average Non-Market Economies Group: average percentage total of anti-dumping cases.

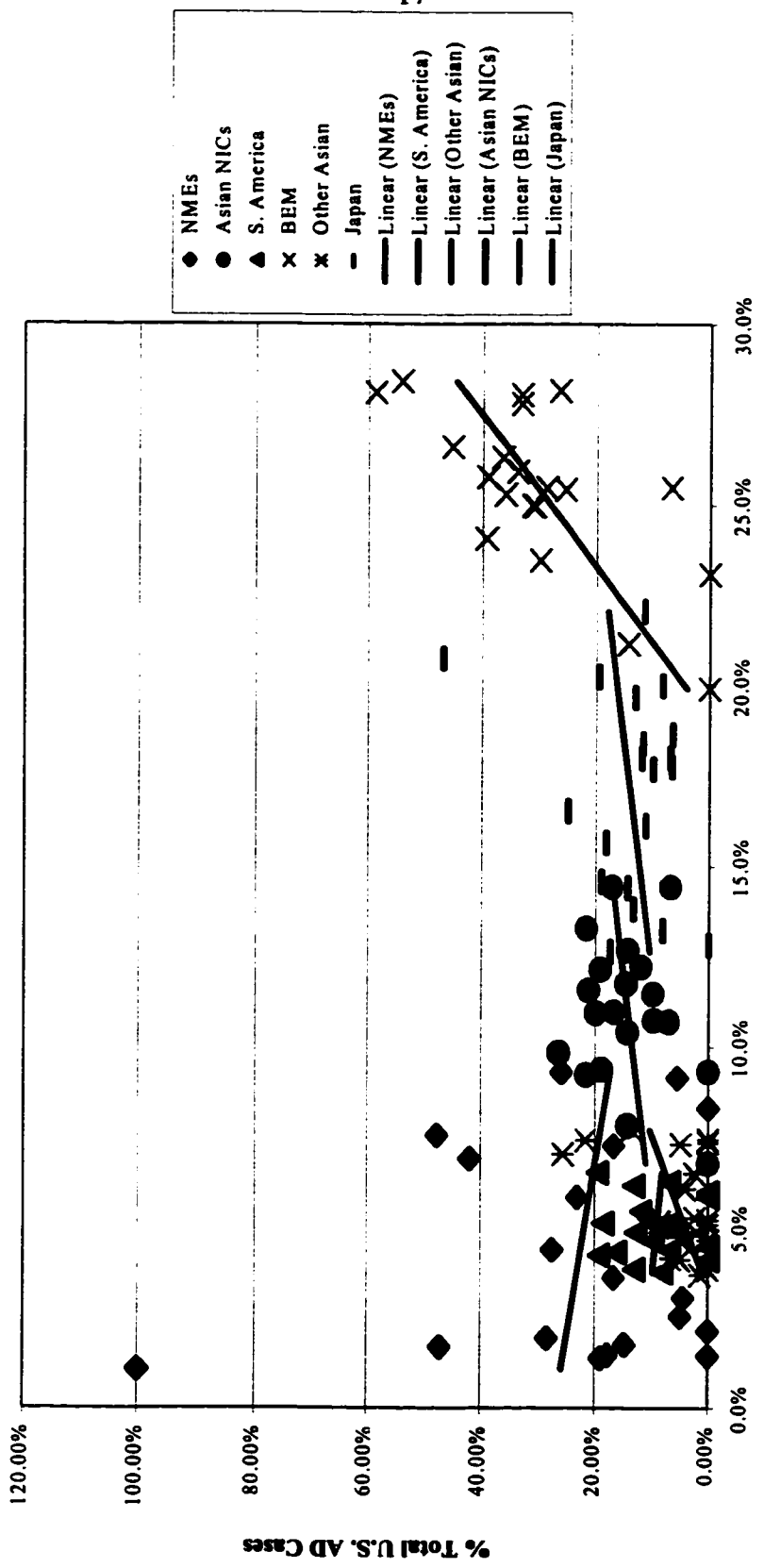

Figure 1-3: Ratio of Imports to AD Cases—Cross Regional Comparison, U.S. Trade Data, 1980-1999

Sources: International Monetary Fund, *IMF Direction of Trade Statistics Yearbook*, various years; and U.S. Department of Commerce. International Trade Administration, *Anti-dumping and Countervailing Duty Petitions Filed Since January 1, 1980*, www.ita.doc.gov/import_admin/records/stats/.

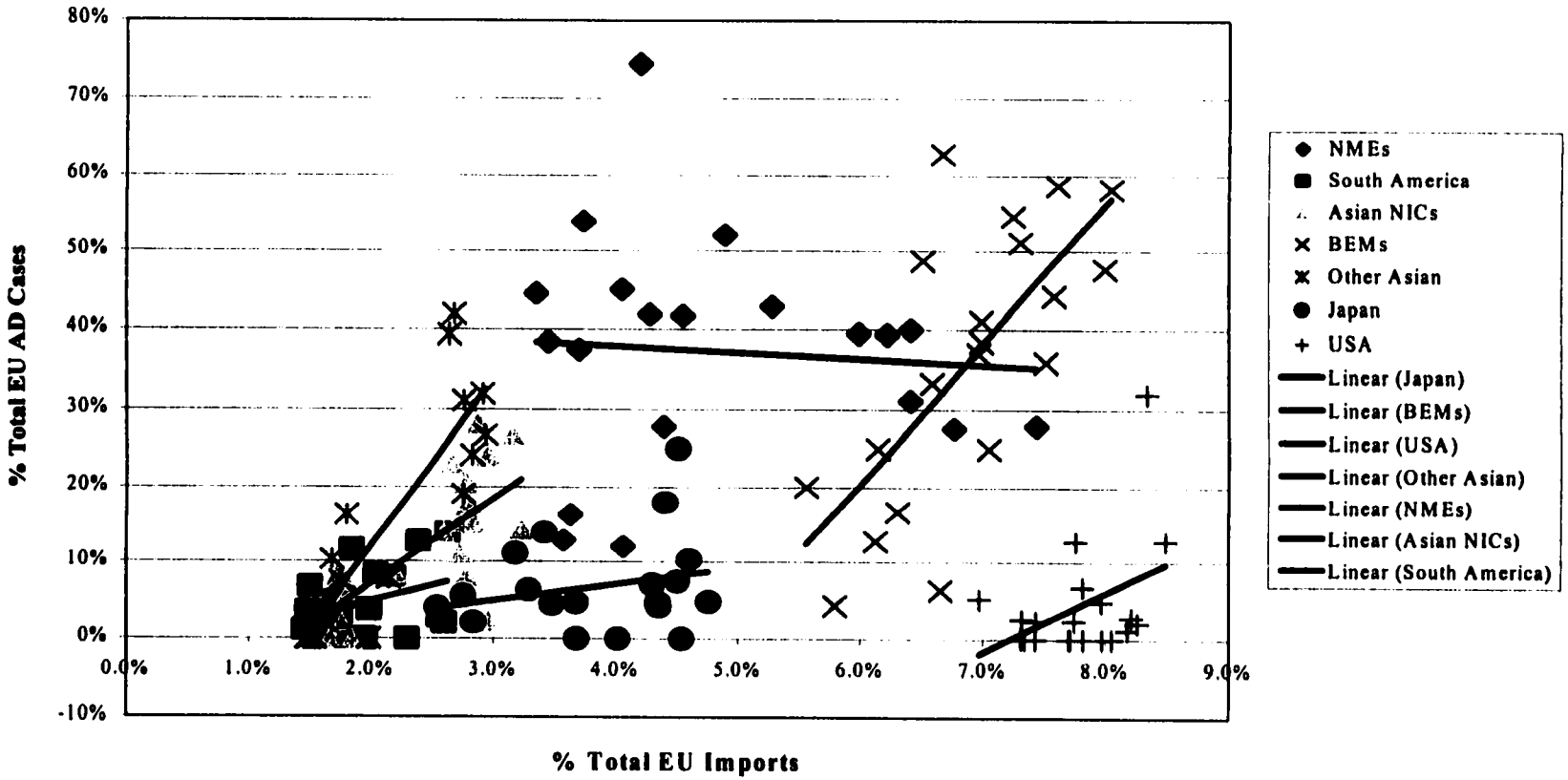

Figure 1-4: Ratio of Imports to AD Cases--Cross Regional Comparison, EU Trade Data 1980-1999

Sources: International Monetary Fund, *IMF Direction of Trade Statistics Yearbook*, various years; and European Commission, *Annual Report from the Commission to the European Parliament on the Community's Anti-dumping and Anti-Subsidy Activities*, various years.

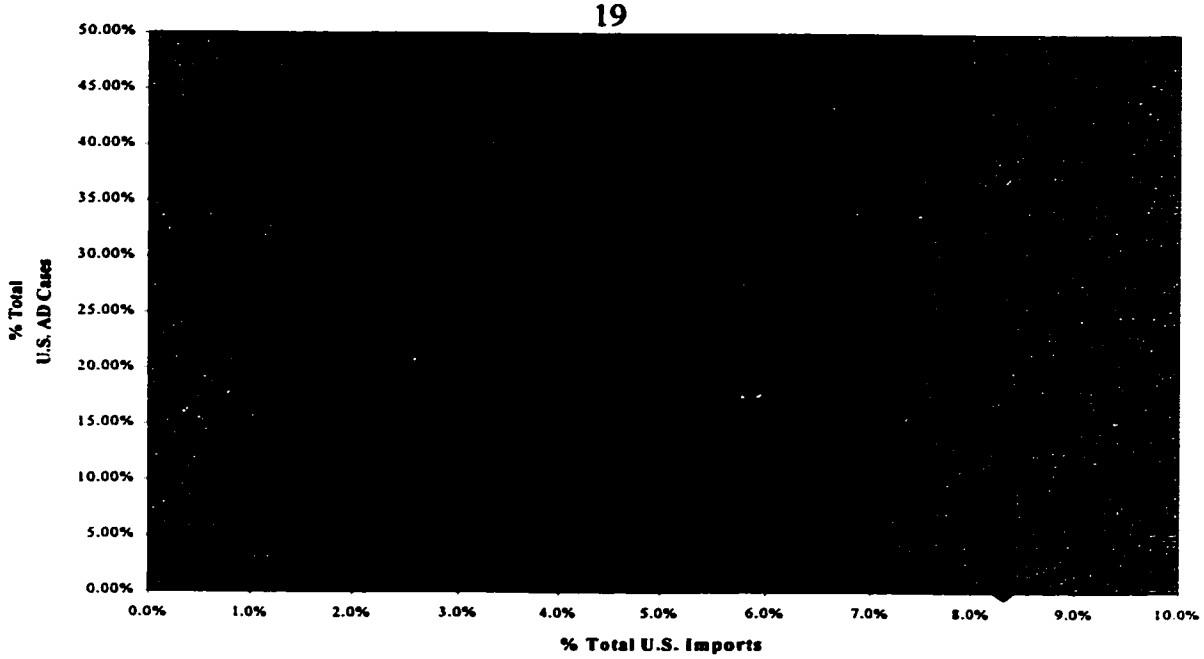

Figure 1-5: Ratio of Imports to AD Cases-Non-Market Economies, U.S. Data 1990-1999

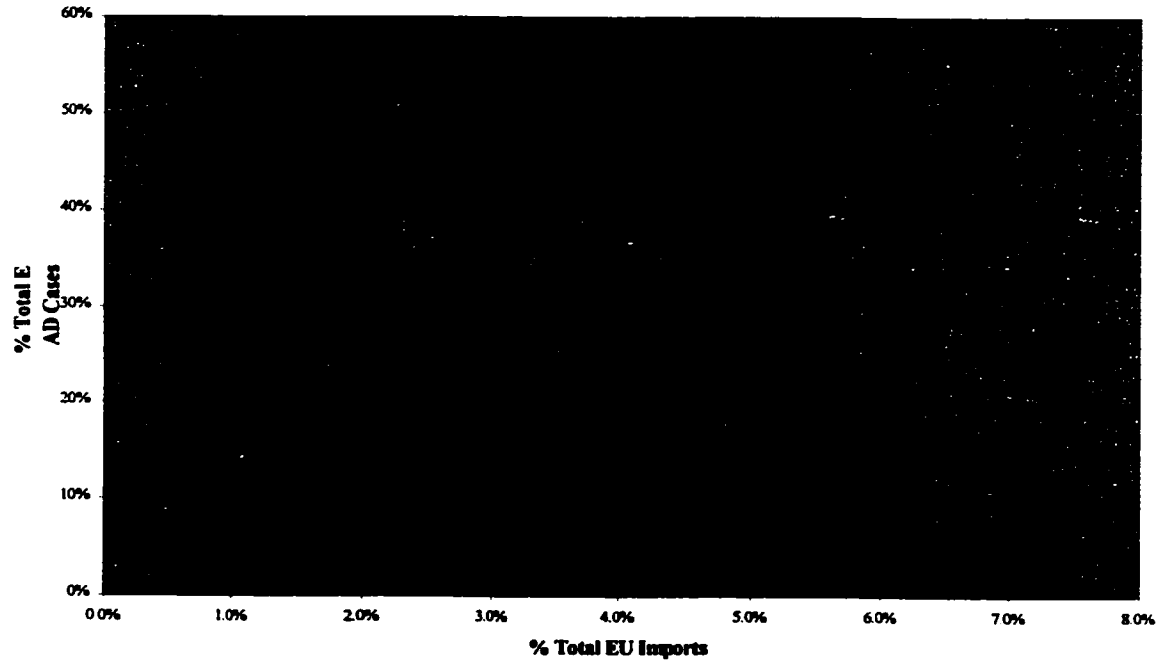

Figure 1-6: Ratio of Imports to AD Cases--Non-Market Economies, EU Data, 1990-1999

there continues to be no positive correlation between trade protection and trade volume. This unusual trade pattern is puzzling.

Not only is the pattern of trade protection against non-market economies unusual relative to import volumes, but it is also unusual in terms of the shear magnitude of the trade protection. Figures 1-7 and 1-8 compare the percentage total of anti-dumping cases initiated against certain country or country groupings over the past 20 years. NMEs are consistently subjected to more anti-dumping cases than other countries, and the average percentage of anti-dumping cases against NMEs is greater than the percentage of cases initiated against other countries for most years.

In sum, anti-dumping use against NMEs in both relative and absolute terms is puzzling. This preliminary evidence refutes the null hypothesis that there is no trade discrimination against non-market economies. The question now remains, what explains the West's different pattern of trade protection against non-market economies? Why do the United States and European Union discriminate against trade with non-market economies?

Cold War Beliefs as Trade Impediments

Trade with all countries is not perceived the same. Beliefs about the nature of the trading partner affect the way trade is framed, beneficial or harmful, and can affect the level and intensity of trade protection. Because countries believe that relative gains from trade matter (Reich 1991, 308), the benefits accruing to each partner in a trading relationship need to be considered when determining whether to trade or not.

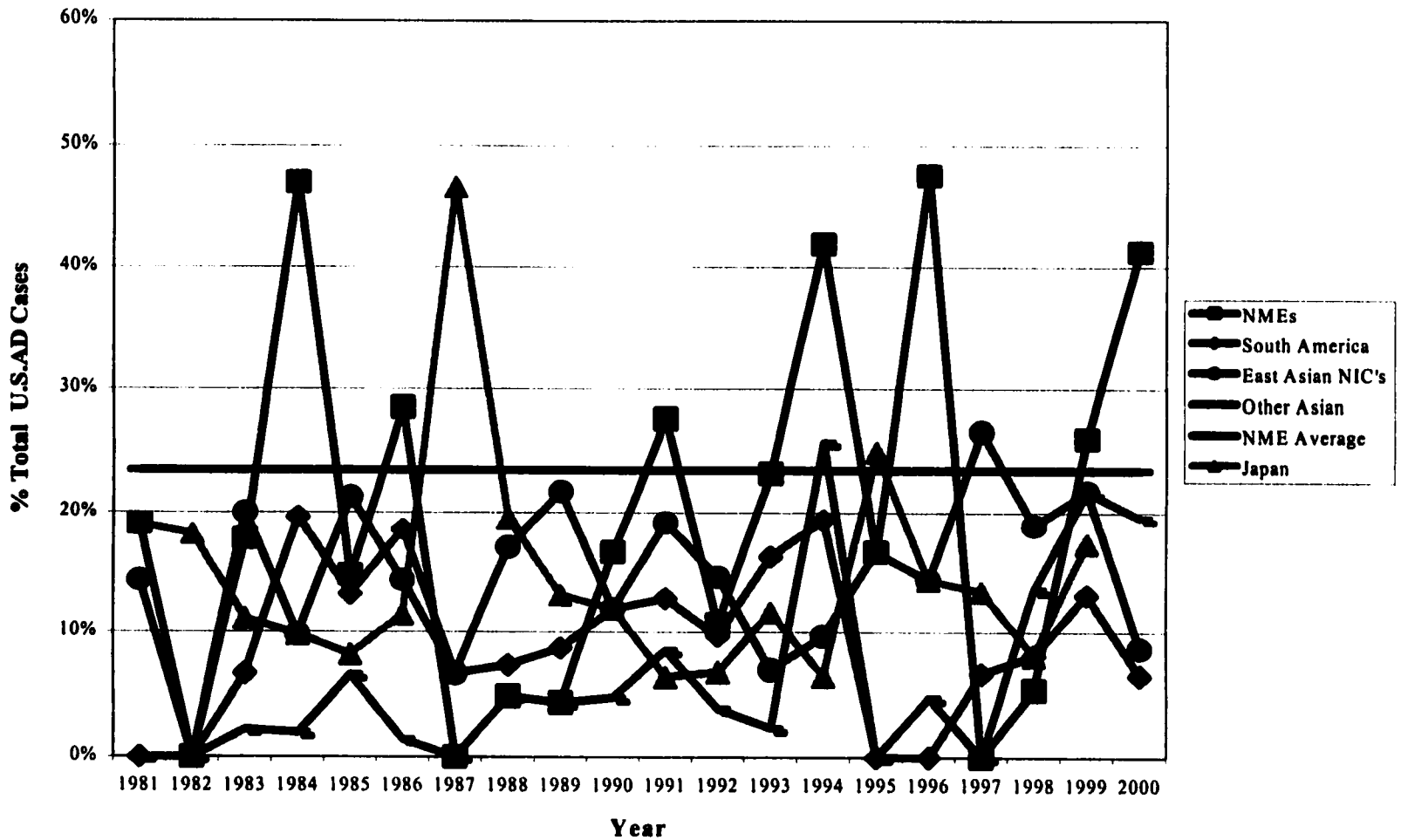

Figure 1-7: Cross Group Comparison of U.S. Anti-dumping Cases, 1981-2000

Note: 1980 data is omitted because NMEs accounted for 100% of cases in that year. This skews the scale of the graph, minimizing variation across time.

Sources: U.S. Department of Commerce, International Trade Administration, *Anti-dumping and Countervailing Duty Cases Initiated Since January 01, 1980.* www.ia.ita.doc.gov/stats/pet-init.html; and *Federal Register*, various.

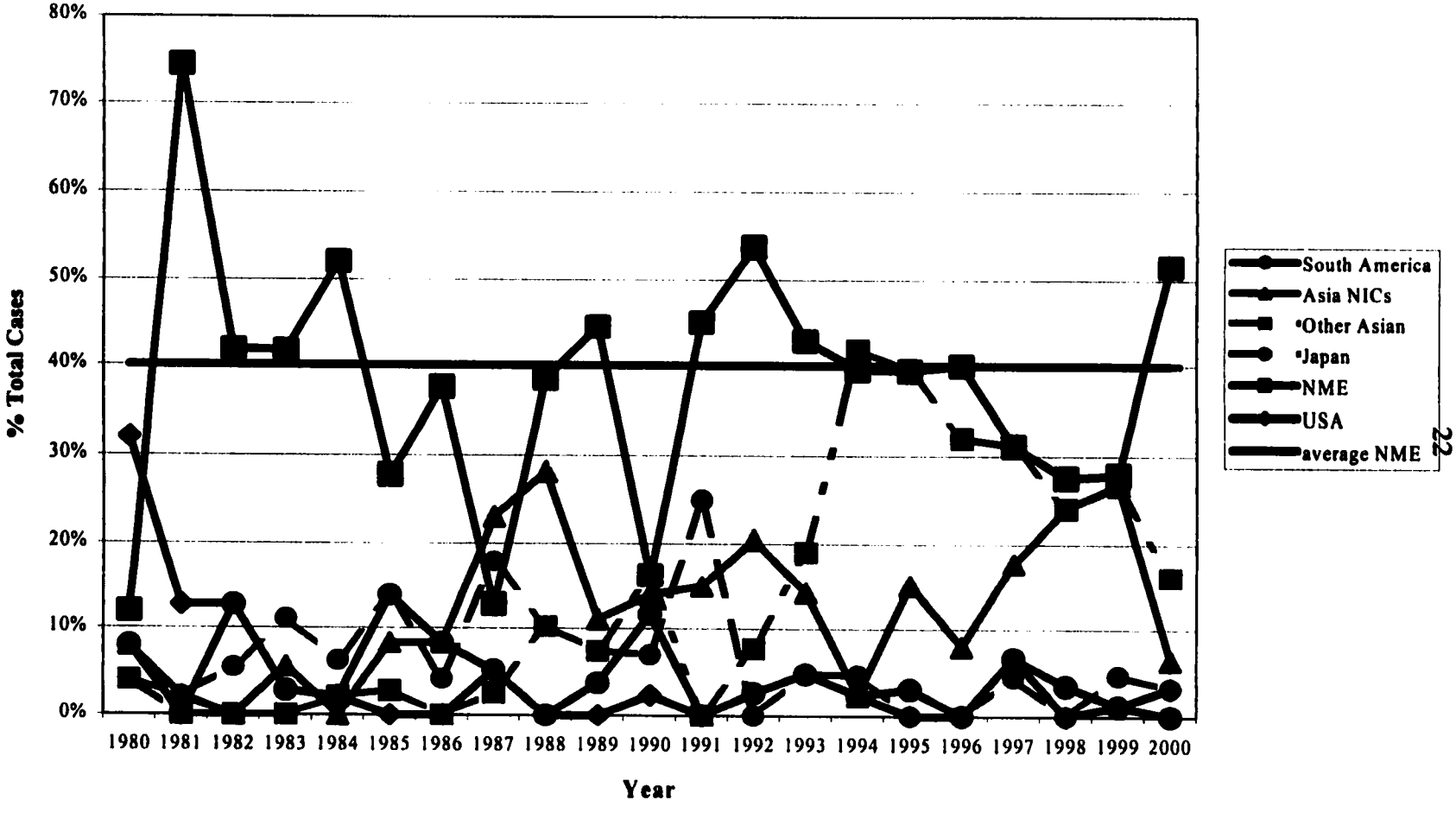

Figure 1-8: Cross Group Comparison of EU Anti-dumping Cases, 1980-2000

Sources: European Commission, *Annual Report from the Commission to the European Parliament on the Community's Anti-dumping and Anti-subsidy Activities*, various years.

During the Cold War, the West developed a set of beliefs about the nature of trade with Communist countries based on a rational assessment of their interests and incentives. Capitalist states were pitted against Communist states in the international system, causing the West to believe that NMEs were actively working to bring about the demise of the West. Because non-market economies allegedly enjoyed unusual trade advantages due to the nature of their centrally planned economic systems and tightly controlled political systems, the West concluded that trade with them was potentially threatening to Western industries. In sum, the West developed a belief that non-market economies were inherently antagonistic and that unfettered trade with them was harmful to the West. This belief necessitated the creation of special trade laws to protect Western industries from unfair trade with NMEs.

Beliefs about the harmful nature of trade with non-market economies continue to affect the implementation of trade policy, even in the post-Cold War period. Since the end of the Cold War, the United States and European Union have each made several substantive changes to their anti-dumping laws in order to make their administration to imports from non-market economies more "fair." In several key areas, the formal laws have changed but they are being administered in such a way as to negate or circumvent the changes, and the result is trade protection. In essence, there is outcome stasis in the face of institutional change. In other cases there are some fledgling attempts to change not only the formal laws but also the manner in which they are implemented. I develop a theory of belief stasis and belief change to account for these seemingly contradictory tendencies in trade policy.

To understand belief stasis, I demonstrate how beliefs function as information discounters, affecting the ability of policy-makers to fully recognize and implement changes in material economic or political conditions in NMEs. Beliefs discount new information that is contrary to the original belief. The information discounting effect of beliefs helps to explain lags between institutional change and rule implementation. It also helps to understand the role of beliefs in decision-making.

The degree to which beliefs discount new information is a function of the certainty with which the belief is held. Beliefs held with greater certainty will discount more information than beliefs held with less certainty. By defining beliefs in probabilistic terms and focusing on the degree of certainty with which a belief is held, I am able to obtain more variation in my conceptualization of beliefs as an independent variable. As such, I am able to introduce the causal role of beliefs in more dynamic terms than has been presented in ideational literature thus far.

Using the same theoretical framework, I develop a theory about belief change based on an assessment of the certainty with which the West held beliefs about the threatening nature of Communist countries during the Cold War. Belief change is a function of changes in information discounted by the certainty with which a belief is held. To derive measures of belief certainty, I map two dimensional preferences, based on a matrix of internationally determined interests and domestically determined institutional incentives, onto a one dimensional issue space. Using this one dimensional continuum of belief certainty, I am able to predict the dynamic of Western belief change toward non-market economies.

Belief certainty is a new variable, that has not previously been emphasized in comparative political economy or international political economy literature. By focusing on belief certainty, I am able to contribute to the literature on decision-making by suggesting a mechanism by which beliefs affect policy making. I am not suggesting a new theory of decision-making or policy change, but I am able to suggest a model for incorporating the causal role of beliefs into decision-making. This project supports the ideational research agenda in international relations and comparative politics, and expands it by suggesting that while beliefs are sticky they do have an internal logic of change. It also contributes to the institutionalist research agenda by demonstrating the limitations of institutions to foster exchange relations in the face of informal constraints, such as beliefs and ideas.

Data and Research Design

This project asks why the West systematically discriminates against trade with non-market economies in transition. I focus on the organizations in the United States and European Union in charge of administering anti-dumping laws, namely the United States International Trade Administration within the Department of Commerce, and the Directorate General in charge of Trade policy (external economic relations) in the European Commission. Because beliefs are held and reproduced by these organizations, and these organizations are in charge of policy change, they are the primary agents in this project. I will be using both individual level data, such as letters from and interviews with policy-makers, as well as organizational level data, such as trade cases and agency generated policy statements. Therefore, there will be a blending of the individual and

organizational levels of analysis. Acknowledging the difficulty imputing organizational level preferences from individual level decisions, I think I am able to overcome this problem by considering information from both levels of analysis together.

In these comparative cases, I examine the use of anti-dumping laws against non-market economies over a 20 year time period (1980-2000), with an emphasis on the changes to the law since the end of the Cold War. Within the two cases (U.S. and EU), I examine the universe of anti-dumping cases against non-market economies in order to process trace the evolution of the laws and their changing application.[10]

The United States and European Union are two of the most frequent users of anti-dumping protection, and therefore provide substantial variation in both product and country against which cases are initiated.[11] This variation is important to avoid narrow explanations of trade protection, which may over-emphasize a certain sector or a certain country. In addition, showing that beliefs affect both the U.S. and EU's application of anti-dumping laws to non-market economies also decreases the bureaucratic arbitrariness of the explanation. If beliefs affect trade relations in both cases, this decreases the possibility that the lingering Cold War beliefs are simply a function of isolated bureaucratic idiosyncrasy. Moreover, there are important differences in the interpretation

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[10] For both the U.S. and EU, data is only available for anti-dumping cases initiated against a country. If an industry thought about filing an anti-dumping case but never actually initiated a case, there is no record and therefore no way to count this. Information on cases that are not started is not obtainable. While it would be interesting to compare conditions surrounding cases that do get initiated with those that do not get initiated, this should not pose a selection bias in the data. Measuring anti-dumping cases initiated is standard practice in the literature, and the only way to measure most forms of trade protection. The dog that never barks remains uncounted.

[11] Australia, the European Union and the United States are consistently the top three users of anti-dumping laws, with South Africa and Canada close behind. For Australia's figures see (Banks 1993). For European figures see European Commission, *Annual Reports from the Commission to the European Parliament on the Community's Anti-dumping Activity*, various years. For a combination of 1997 figures see (Economist 1999).

and application of anti-dumping laws between the United States and the European Union. For example, the United States does not provide much variation in terms of belief change, while the European Union has evidenced substantial belief change. As such, using a comparative case study design allows me to increase variation on both my independent and dependent variables.

I test several alternative hypotheses based on traditional political economy literature, including: interest group accounts of trade protection based on the congressional dominance theories and adding machine models; sectoral explanations focused on the composition of export commodities; sunset or sensitive sector based theories focusing on the economic vulnerability of domestic competing industries; and international economic explanations looking at changes in import volume and import penetration. I demonstrate that traditional political economy explanations are inadequate to explain patterns of trade protection against non-market economies, and argue that international political considerations, such as preconceived beliefs about the nature of trading partners, affect the application of trade laws.

I use a mixture of quantitative and qualitative research methods in this project. First, I construct an original large N data set and analyze it using several regression analyses in order to test and refute the explanatory power of the alternative economic and interest based hypotheses. Second, using both quantitative and qualitative methods I compare the domestic economic and political institutions of non-market economies and other developing countries to see if there is an institutional argument for the discriminatory treatment. Third, examining two case studies, I use qualitative methods to delve into the causal mechanism by which beliefs affect trade policy. By combining

interviews, process tracing of legal cases, archival research of unpublished memoranda and correspondence, and observation of court hearings I am able to elucidate both how beliefs affect policy implementation and predict the order in which beliefs will change. In this way I am able to triangulate the issues using a variety of methods and research techniques.

Chapter Outline

The remainder of this project is structured as follows. Chapter 2 is the theoretical core of the project. In this chapter I develop a theory about belief stasis and belief change to explain Western patterns of trade protection against NMEs. I then review the political economy literature on trade protection at both the domestic and international levels of analysis to derive testable alternative hypotheses. In this way I am able to test the utility of traditional theories of trade protection against a theory focused on the causal role of beliefs.

Chapter 3 tests some of the hypotheses generated in chapter 2 using logit and multiple regression techniques. I test the ability of the alternative hypotheses to explain both the incidence and intensity of trade protection at the sector level over a 15 year time period using an originally constructed set of United States data (N>600). I demonstrate that traditional hypotheses are insufficient to explain the use of anti-dumping laws against non-market economies.

Before diving into the case studies, I provide an overview of anti-dumping laws in chapter 4. I review the agencies charged with administering the laws, and the way the laws have been interpreted and implemented. I compare the administration of a typical

anti-dumping case to a non-market economy anti-dumping case in order to illustrate the differential treatment. The implications of this differential treatment are explicated in the case study chapters.

Chapters 5 and 6 are the case studies. Chapter 5 examines the evolution of U.S. trade policy toward non-market economies, focusing on changes in the adjudication of anti-dumping laws since the end of the Cold War. Chapter 6 examines the evolution of EU anti-dumping laws toward non-market economies. It provides an interesting point of comparison to the U.S. cases, since the EU has followed slightly different procedures for implementing its laws. Each of these chapters compares the explanatory power and predictive ability of materialist hypotheses to ideational hypotheses, in order to demonstrate the utility of an hypothesis about belief stasis and belief change.

In the conclusion, I draw out some of the policy implications of this study. I examine how beliefs might also affect the implementation of other trade laws. Of particular importance is the impact that trade policy has on the reform efforts of transitional economies, and their ability to integrate into the international system.

Chapter 2: Belief Stasis and Belief Change: Theory, Testable Implications and Alternative Hypotheses

> The great rule of conduct for use in regard to foreign nations is, in extending our commercial relations to have with them as little *political* connections as possible... Harmony, liberal intercourse with all nations are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand, neither seeking nor granting exclusive favors or preferences.
> --- George Washington, September 1796 (in Cooper 1987, 320).

Introduction

In this chapter I present an argument for why and how beliefs about non-market economies affect the manner in which the United States and European Union apply their trade policy. I argue that one needs to examine Western beliefs about the antagonistic and inherently threatening nature of NME trade developed during the Cold War in order to understand and predict patterns of trade protection against non-market economies. I also review the traditional political economy literature in order to derive testable hypotheses to explain patterns of protectionism. I present a belief based hypothesis both as a foil and a complement to these theories, reflecting the complex reality of trade policy. The hypotheses are tested in the case study and statistical chapters.

In order to derive testable implications from political economy theories, I break the literature into four broad categories based on the origin of the effect on trade protection: domestic or international, and political or economic. I examine theories by grouping them into domestic political, domestic economic, international economic, and international political explanations. Within this rubric, my hypothesis falls under international political explanations. Separating the political from the economic does not

mean that one effect can somehow be examined independently of the other. I am using this simple matrix as an organizing heuristic to better understand the explanatory variables proffered by the vast literature and to derive testable implications from them.

International Political: Trade protection as a function of international political considerations

There is a rich literature exploring the use of trade and trade protection as tools of foreign policy (Baldwin 1985a; Baldwin 1985b; Hirschman 1945). This literature focuses on the strategic nature of trade, and the importance of trade as a means of maximizing a state's interests. Because the structure of international trade is determined by the interests and power of states, trade policy becomes foreign policy (Cooper 1987; Krasner 1976). Both mercantalists and realists have emphasized the fungibility of gains from trade into other sectors, particularly the military, thereby elevating trade to a national security issue and economic priority (Gilpin 1987, 180-190; Grieco 1993; Krasner 1978). How much is traded or not traded, what is traded, and with whom trade is conducted are all important foreign policy considerations.

Table 2-1: Matrix of theories explaining when an industry receives trade protection

	Economic	**Political**
Domestic	• Sensitive sector theories • Declining macroeconomic conditions	• Interest group theories • Congressional dominance model • Size/strength of the industry
International	• Change in import penetration • Change in import volume	• Political beliefs about trading partner • Trade as tool of foreign policy

It matters from whom the United States or European Union is importing. Trade with certain countries, even in the same commodity, is often perceived differently. In one case trade is beneficial, in another trade may be detrimental to the national interest. The United States' frequent use of "Japan bashing techniques" to deter U.S. consumers from buying Japanese goods is a case in point (Destler 1992, 115-130; Lincoln 1990). France imports films from many countries, but U.S. films are particularly regulated because they are "Americanizing" national culture. There is a role for international political considerations in explaining trade protection.

As a tool of foreign policy, trade is used to hinder or promote the development of other states. Relative economic gains matter, and they are more important with regard to some states than others due to overarching international political considerations (Mastanduno 1993; Prestowitz 1990; Snidal 1993). These political considerations can be ideological and/or material. Friend or foe, trustworthy or untrustworthy, institutionally similar or dissimilar, strategically important or unimportant ---these are all factors which affect the way one state treats another. Both perceptions of and material differences between states filter into trade policy.

For example, the United States has used trade and trade protection to promote the development of allies and hinder the development of enemies. During (and even after) the Cold War, the United States controlled the export of "strategically important" goods to the USSR and its allies in order to hinder their relative advancement (Mastanduno 1988). During periods of the Cold War the United States went as far as to configure trade policy according to criteria of "economic warfare" in order to hinder the economic development of its enemies by denying them gains from trade (Mastanduno 1992, 13).

Trade has also been used by the United States to bolster strategically the economies of allies, such as Asian Newly Industrializing Countries (NICs), and Europe during the Cold War (Gilpin 1987, 131-151; Haggard 1990; Kindleberger 1981). Keeping markets open to trade with some is just as strategic as keeping markets closed to others.

There are problems with the body of literature on trade and trade protection as tools of foreign policy. It tends to be either very generalized or very narrow. Highly generalized studies theorize about the security implications of trade in the abstract (Baldwin 1985a; Gowa 1994; Lake 1988a). As such they are often at such a high level of abstraction that differences in patterns of trade protection across countries are glossed over.

This literature is not very helpful in explaining continued discrimination against non-market economies. For example, Lott argues that there is no politically motivated anti-dumping discrimination against countries like Poland and Romania because they are not a security threat to the United States (Lott 1995). The empirical evidence contradicts his assertion. If the reason is not based on security threats, then there must be other factors involved. If security considerations explain trade protection against China, what explains trade protection against Kazakhstan and Latvia? I argue misleading conclusions about patterns of trade protection can result from such a highly generalized approach to trade as a general function of security. Such theories provide little guidance in addressing post-Cold War trade relations with transitional economies.

Very narrow studies have focused on time and commodity specific incidences of trade protection, such as automobile trade between Canada and Korea during the late 1980s (Kwon 1995), semiconductor trade between the United States and Japan in the late

1980s (Krauss 1993), and chemicals trade between Europe and Poland during the early 1980s (Olechowski 1990). These studies are limited to a single commodity or a small group of commodities traded between two trading partners for a fixed period of time. The results are highly time and commodity specific, and do not yield theoretical evidence regarding overarching patterns of trade protection.

Additionally, literature on trade as foreign policy has focused narrowly on trade protection in high profile industries like semiconductors, steel, and agriculture, and has ignored commodities such as hairbrushes, compact disk boxes, lug nuts, and aspirin, which are also hampered by trade protection. Non-market economies are diverse exporters. They produce high, medium and low value-added products such as televisions, specialty steel products, shoes, pharmaceuticals, uranium, and paintbrushes. It is not enough to explain trade in steel or chemicals. One must also account for Western trade protection against a variety of commodities. As such, theories about trade protection in a limited number of high profile commodities cannot explain overarching patterns of protection against non-market economies.

If international political factors matter in explaining patterns of trade protection, then which factors matter and how do they matter? In the following section I will argue that beliefs about the threatening nature of trade with non-market economies are important causal variables in accounting for patterns of trade protection.

Trade and Beliefs: Theory and Hypotheses

Traditional neoclassical economic accounts of trade policy focus on material interests, loosely defined, and ignore the role of ideas and beliefs (Caves, Frankel and

Jones 1990). I argue that these ideationally impoverished accounts of trade policy rob us of both predictive and explanatory capacity. I suggest that turning our attention to the role of beliefs and ideas may open up new ways of thinking about patterns of trade protection.

Definitions

Barner-Barry defines a belief as "an understanding about ourselves or the environment we regard as fact" (Barner-Barry 1990, 205). Modifying this definition slightly, I will define beliefs as a probabilistic understanding about something or someone that we regard as fact. Beliefs are supported by "what the holder of the belief considers is relevant or valid knowledge," which may include expectations and anticipations reflecting prevailing values and knowledge (Barner-Barry 1990, 205).[12] There is always the slightest element of uncertainty in the veracity of a belief.

In determining whether to believe something or someone, I assume that the parties make rational calculations, given both information limitations and their own cognitive limitations (Simon 1955; Simon 1985). Parties assess available information, knowing that there may be limitations on the veracity or scope of information, and make probabilistic assumptions about the nature of someone or something. I am not discussing generalized world belief systems (Converse 1964). I am examining specific beliefs held by specialized agents in a given issue area. I focus on a belief that party A holds about

[12] Beliefs and ideas are used interchangeably in the international relations and comparative politics literature and I will do so as well. For example, Goldstein and Keohane vacillate between the two terms in discussing the possible causal effects of ideas/beliefs (Goldstein and Keohane 1993), and Goldstein even defines ideas as "shared beliefs" (Goldstein 1993, 11).

party B in issue X. [13] The belief could carry over into issues Y and Z, but does not necessarily have to.

The belief is probabilistic because party A can hold the belief with greater or lesser certainty. Belief certainty can vary over actors or issues. Party A can strongly believe that party B is trustworthy, can moderately believe that party B is trustworthy, or can weakly believe or doubt that party B is trustworthy with respect to issue X. The certainty or strength of the belief affects the nature of the relationships between the parties in the given issue area. In this project, I examine the role of beliefs in trade policy so the issue remains constant while the intensity with which the belief is held vis-à-vis parties varies. Thinking about beliefs as probabilistic helps to grapple with degree of belief certainty across actors.[14]

Beliefs have causal weight. They can influence choices and outcomes. "Beliefs produce subtle tendencies to favor some interpretations of events over other plausible interpretations and to favor some general styles of political action over others when choosing a specific political action" (Stone and Schaffner 1988, 173-4). Goldstein and Keohane suggest three different ways of thinking about the origin and impact of beliefs: beliefs as world view, principled beliefs, and causal beliefs (Goldstein and Keohane 1993, 8-10). World view beliefs are broad, generalized value commitments (8).

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[13] Note, the focus on party A's belief of party B in a specific issue X is derived from Russell Hardin's use of this definition in defining trust relations. Hardin, Levi and others examine relationships in which agent A (dis)trusts agent B to do X (something) (Hardin 1998; Levi 1998). Trust is fundamentally cognitive; it is a belief. "To trust or to distrust others is to have some presumption of knowledge about them" (Hardin 1998, 11). Therefore I draw heavily on the trust/distrust literature in developing my thoughts regarding the role beliefs have on exchange relations.

[14] I derive my definition of a probabilistic understanding of beliefs from the trust literature. In making a rational assessment of whether to trust someone, one makes a probabilistic assessment about the interests, incentives, and capabilities of the other and decides whether to make oneself vulnerable to the other; whether to trust or not (Coleman 1988; Gambetta 1988).

Principled beliefs are normative criteria for distinguishing right from wrong, and serve as doctrinal guides for action (9). Causal beliefs are beliefs about cause and effect relationships, consensually agreed upon and recognized by elites (10).

My definition and use of beliefs in this project combines the notion of principled and causal beliefs.[15] Party A, in this case the West, believed that party B, in this case the Communist Bloc, was antagonistic and harmful. The assessment of the Communist Bloc by the West had an overt normative component. Communism was bad, and capitalism was good. Communist countries, and the Soviet Union specifically, constituted "the evil empire." The belief was causal as well. The West believed that exchange relations with Communist countries would disproportionately benefit Communist countries. Exchange would cause Communist countries to prosper. Moreover, since Communist countries were inherently antagonistic and harmful, exchange would cause harm to the West. The two presumptions are necessary in order to understand the mechanism by which the belief originated and was perpetuated. I will discuss the origin and components of this belief in more detail later in this chapter.

A Model of Belief Stasis and Belief Change

Once beliefs are formed they are sticky, and somewhat resistant to direct change. "Beliefs are not easily altered through reasoned, dispassionate discussion of evidence" (Gerber and Green 1999, 191). Political scientists have used social psychological insights to understand the mechanism by which ideas and beliefs resist change. Social

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[15] Garrett and Weingast's discussion of the use of focal points in the construction of the European Community's internal market is another example of a piece combining principled and causal understandings of beliefs and ideas (Garret and Weingast 1993).

psychology has shown that decision-makers are not natural Bayesians, meaning they do not engage in timely updating of information and then make changes in their assessments or responses to situations (Simon 1979, 9: Tetlock 1999). "People, often experts, are slow to change their minds in response to unexpected events" (Goldgeier and Tetlock 2001, 72). People use rules of thumb, heuristics, beliefs, and ideas to help them make decisions (Barner-Barry 1990, 204; Stone and Schaffner 1988, chapter 7). Relying on cognitive shortcuts and heuristics, such as pre-formed beliefs and decision making shortcuts, may involve ignoring contradictory information (Tversky and Kahneman 1974).

Political scientists have taken these findings and applied them in various incarnations under the rubric of belief perseverance theory. Belief perseverance theory looks at how decision-makers may systematically disregard new, contradictory information, in rendering policy decisions. For example, Jervis uses the concept of belief perseverance to explain why decision-makers maintain adverse images of their adversaries in spite of contrary information (Jervis 1976, 68). "Cognitive mechanisms such as selective attention and biased assimilation of contradictory evidence buffer beliefs from refutation," thereby perpetuating the bad faith model of one's opponents (Tetlock 1998, 880). One assumes the worst of one's enemy and has difficulty changing beliefs and perceptions about him even when the enemy changes. Larson has used belief perseverance theory and attribution theory to explain why people maintain consistent belief structures even if they have to ignore or misinterpret new, relevant information (Larson 1985, 40). Hardin has demonstrated the great difficult an individual faces trying

to break a vicious cycle of distrust because of lingering beliefs and perceptions (Hardin 1992).

Institutionalists have also explored the lingering effects of institutionalized ideas or beliefs. Goldstein and Keohane argue that once ideas become embedded in institutions they endure and can constrain future policy choices (Goldstein and Keohane 1993, 12). Goldstein's analyses of U.S. trade policy demonstrates how embedded ideas can constrain future policy changes. Weir also demonstrates how institutionalized ideas constrain possible new ideas and interests by limiting discussion of ideational alternatives (Weir 1992). These analyses present a fairly static conceptualization of beliefs. Once beliefs are in place, they impede change, or constrain future policy choices in an overly deterministic manner. Moreover, because beliefs are presented statically, these studies fall easy prey to the charge that beliefs are merely epiphenomenal.

Bryan Jones gets us closer to a dynamic understanding of the role of beliefs and ideas in the decision-making process. Applying his insights to American politics, Jones demonstrates the mechanism by which beliefs and ideas affect policy making, by focusing on the bounded rationality of decision-makers due to both environmental constraints and cognitive limitations. Building on the work of Herbert Simon (Simon 1955; Simon 1985), Jones argues that individuals and organizations engage in "disproportionate information processing." According to Jones:

> This [disproportionate information processing] implies that objective information is transformed in the process of thought. It involves the tendency of people to react differently to identical information depending on the context in which the information is presented. What is essentially identical information provokes different responses in situations that are similar in all major respects except the interpretation that decision makers have placed on the information. In one context, a bit of information is

> ignored. In another, it becomes meaningful and stimulates action (Jones 2001, 9).

Disproportionate information processing does not suggest that once beliefs are in place they have a static effect on policy making. Instead, Jones presents a more dynamic model of the selective assimilation of information by individuals and organizations.

While beliefs and ideas may be sticky, they are not completely impervious to change. Social science has theorized about both the nature of change and mechanisms for effecting change. Political scientists have argued that belief change is not incremental, but rather appears in punctuated or disjointed steps (George 1983; Nisbett and Ross 1980). Krasner has referred to the "tectonic plate shift theory" of regimes, to describe the lags and uneven rates of change of regimes, of which beliefs are one element (1983, 357-361). Jones has argued for the "episodic and disjointed manner" of belief change due to human's inherent adaptive tendencies (Jones 2001, 21). Thinking about belief change in terms of fits and starts is consistent with an understanding of the sticky nature of beliefs.

Both belief stickiness and belief change have a similar internal logic. I argue that belief stickiness and belief change are partially functions of the certainty with which the belief is held. Thinking about beliefs in terms of certainty allows for some variation in the "measurement" of beliefs, as well as the ability to differentiate different effects of beliefs. Beliefs act as information discounters. For beliefs to change, information changes. However the full change in information does not translate directly into belief

change. The certainty with which the belief is held discounts the full information change. A stylized representation of this might be:[16]

$$\Delta B = \Delta I * C$$
$$\Delta I = f(\Delta S, \Delta F, ES, \Delta T, \Delta R)$$
$$C = f(a, b, c) \text{ at } t=1$$

where: B represents beliefs held by party A about party B in issue area X; I represents information actually received by party A about party B, not simply all information available about the issue; C represents belief certainty (a number between 0-1) which is a function of the assessment party A makes about the interests (a), incentives (b), and capabilities (c) of party B in issue area X; S represents a change in the nature of institutions, or institutional safeguards; F represents the frequency of interactions; T represents the attention that party A is able to give to the situation; R represents other changes to the empirical reality of the situation; and ES represents a crisis or exogenous shock which may disrupt the system. This simplistic model is a way to conceptualize belief stickiness at one point in time as well as the dynamics of belief change.

Belief certainty is a way to measure the effects of beliefs. Belief certainty is a function of party A's assessment of party B's interests, incentives, and capabilities with respect to issue X. Therefore the degree of belief certainty can be derived by examining the underlying factors affecting A's perception of B. How party A chooses to weight the underlying attributes in forming a belief about party B can change with changes in the institutional environment in which the decision is made, by changing party A's attentiveness to the attributes (Jones 1994, chapter 3), by reframing the issue, or by

[16] There are many micro-level factors that affect the ability of individuals to change their beliefs, including the propensity of an individual to be open-minded or self-critical, and the degree to which an individual is

changing the individuals that constitute each party, for example by introducing a political entrepreneur with new ideas.

Belief certainty is probabilistic, and can be thought of as some discount rate on a continuum from total certainty to total uncertainty. Taking a multidimensional concept like belief certainty and mapping it on a uni-dimensional continuum from high to low implies that the parties are able to assign weights to the attributes and rank them accordingly. The ends of the continuum will be easier to map than the middle of the spectrum. It will be easier to ascertain high belief certainty and low belief certainty. However, the mid-range will be somewhat more difficult to map along a single dimension, and therefore may be more sensitive to changes in the weighting of the attributes, the framing of the issue, or the institutional context. I will address this issue later in the chapter when I attempt to map NMEs' empirical dimensions on a single issue continuum.

If a belief is held with greater certainty, it will discount changes in information more than if it is held with lesser certainty. Strongly held beliefs will discount incoming information and impede belief change. Weakly held beliefs will still discount some of the information but will be less likely to impede belief change. The belief change could be positive or negative. Party A's beliefs about party B could improve or worsen based on changes to the empirical reality or information.

Figure 2-1 illustrates the difference in discounting effect between high belief certainty and low belief certainty on information flows. R is the line predicted by economic rationalist assumptions of perfect Bayesian information updaters. According to

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responsible for outcomes not processes (Tetlock 1998, 880). However, this project examines beliefs held at

the line R, changes in information are directly processed and result in belief changes. C_H (high belief certainty) and C_L (low belief certainty) lines demonstrate the effects that belief certainty have on information changes. More contrary information is required under conditions of high belief certainty to effect the same amount of belief change as under conditions of low belief certainty. The marked change in the slope of C_H with the addition of more information reflects the punctuated nature of belief change. The low certainty curve is much steeper than the high certainty curve, but it is still not perfectly rational. Even beliefs held with low certainty discount new information. As such, these figures help to clarify why the system does not change proportionately to the inflow of new information. It demonstrates how beliefs can appear sticky, and yet can also change. In this project I will be examining trade agencies, as systems, and the discounting effects of belief certainty in order to explain their treatment of NMEs.

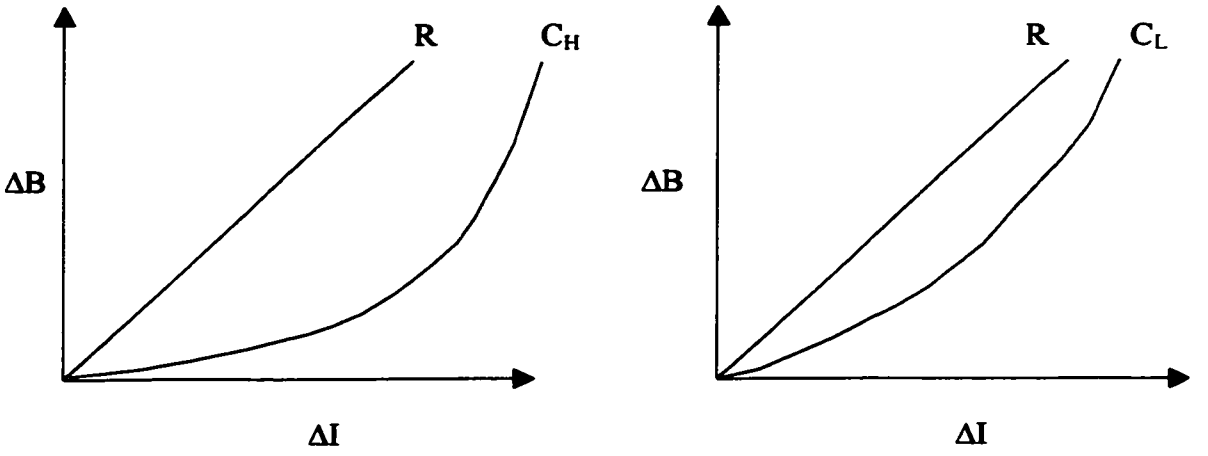

Figure 2-1. High Belief Certainty **Low Belief Certainty**

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the organizational level. Therefore I will not explore these possible sources of belief change.

Changes in information can come from a variety of sources. Exogenous shocks, institutions, iterated interaction, a change in attention to an issue, as well as other changes in the empirical reality of a situation all affect information flows. The ability of each of these factors to affect belief change is in turn affected by the certainty of the original belief. I will briefly touch upon these sources of information change, highlighting the ones I will pay particular attention to in this project.

First, exogenous shocks can shake the foundations of an idea and prompt belief change. Goldstein discusses how people are most receptive to new information and ideas during periods of crisis when old methods are no longer working (Goldstein 1993, 13). Hall examines why the idea of Keynesianism was particularly salient and well received during the crisis period of the Great Depression and interwar period (Hall 1989).

Second, iterated interactions can help to change beliefs over time (Axelrod 1984; Axelrod and Keohane 1986, 230-8; Larson 1997, 240-47). Tetlock discusses the importance of feedback from repeated exchanges as a form of learning that can promote belief change (Tetlock 1998, 880). Experimental economics has shown that beliefs can be changed if the actors engage in repeated play with rapid, unequivocal feedback regarding actions (Goldgeier and Tetlock 2001, 76).

Third, the creation of new institutions can promote belief change. Institutions can facilitate information flows and promote interactions, which in turn facilitate belief change. While not always addressing belief change directly, new institutionalism does focus on changes in the structure of interactions and information available to parties which will affect beliefs. For example, new institutionalist studies have analyzed the role of institutions in establishing credible commitments between parties to foster exchange

(Bates 1998; Greif 1998; Levi 1997; North 1990; Ostrom 1990). Keohane argues that institutions lower transaction costs by facilitating information flows and decreasing uncertainty (Keohane 1984, 89-95). By altering information flows and promoting exchange, the beliefs and perceptions of the actors involved can change.

Fourth, the attention an issue receives can affect information flows. Shifts in attentiveness to different underlying aspects of preferences can change the choices made by a decision-maker, without actually changing his preferences (Simon 1978, 13; Simon 1985, 302). Because decision-makers tend to process information serially, changing which attributes of an issue are focused on can affect information flows (Jones 1994, especially chapter 3). By changing attentiveness to an issue, information changes. Finally, there will be other changes in empirical reality which will affect information flows. These changes could be as a result of learning, or innovation, or a change in the actors involved, or a change in the structure of the relationship between actors. There are a myriad ways that the empirical reality of a given issue between two parties could change. As such, while I include it as a possibility in the equation, I will not be exploring all the possibilities that this variable affords.

In this project I focus on the creation of institutions and iterated interactions and their effects on belief change. These two factors promote but do not directly cause belief change. They interact with the stickiness of beliefs, together affecting the nature of belief change. By thinking about these facilitators of belief change in conjunction with the degree of certainty with which a belief is held, one is able to create a stylized model of belief change.

Belief certainty reconceptualizes the causal role of beliefs in the decision-making process by introducing a new intervening variable. Thinking about beliefs in terms of degree of certainty allows for more variation in the understanding of the role of beliefs in decision-making. While it does not present a whole new way of thinking about the decision-making process, nor does it present a new model of policy change, it does offer insight into the unified logic of belief stasis and belief change. It attempts to conceptualize beliefs and belief change in more dynamic terms. Thinking about belief certainty as a discounting factor affecting belief change also provides a way of predicting belief change. In the following sections I will apply this model to the empirical puzzle of trade protection against NME in order to derive testable hypotheses regarding Western trade policies toward former Communist countries.

In sum, this section has summarized a definition of beliefs, a discussion of their tenacious propensities, and an exploration of factors which promote belief change. I have defined beliefs as a probabilistic understanding about something or someone that we regard as fact. I argue that one can think about variation in beliefs according to the certainty with which they are held. Certainty acts as an information discounter, and affects the ability to change beliefs. I contend that beliefs are sticky, and belief change occurs in disjointed punctuated steps, not incrementally. Finally, I contend there are three main ways to dislodge sticky beliefs: exogenous shocks, iterated interactions, and institutions. In the following sections I will begin to apply this theoretical foundation to the case of Western trade with non-market economies. I will examine the origin of the belief system, explain the mechanism by which the belief is perpetuated, and predict patterns in belief change. In the statistical and case study chapters, I will provide two

kinds of evidence: evidence in support of my assertions about the causal role of beliefs and evidence in support of my predictions about belief change.

Origins of the Cold War Belief System

There are three broad reasons why the West developed an antagonistic Cold War belief system about non-market economies: strategic, institutional, and ideological (Gaddis 1972; Paterson 1973; Rees 1967; Schlesinger 1967). First, the West looked upon Communist expansion as a direct threat to capitalism. The Communist Bloc posed a strategic threat to the West due to its nuclear capabilities and global expansionary tendencies. Military capabilities and expansionary interests combined with a zero sum conceptualization of the international system, all worked to create a sense of a Communist strategic threat. Therefore on a strategic basis, it was rational for the West to develop a belief about antagonistic Communist interests.

Second, the Communist bloc had domestic economic and political institutions which might appear to threaten the West. Economically, a centrally planned economy was a threat to Western capitalism due to its ability to absorb short term or sectoral losses for the overall good of the economy (Wilczynski 1969, 178-186). Competition from centrally planned firms could easily drive Western market oriented firms out of business. It was assumed that centrally planned economies enjoyed numerous unfair trade advantages, that could harm the West should it engage in unfettered economic exchange. The reputed trade advantages included: a Ministry of Foreign Trade that helped support and direct trade and exercised a monopoly on foreign trade; multiple exchange rates; domestic price controls; and government credit facilities (Gregory and Stuart 1990,

chapters 7-8, 163-250; Kornai 1992, 262-292 and 333-351; Murrell 1990, chapter 3, 25-42). The domestic structure of the economy not only gave NMEs a purported unfair trade advantage but also gave them an incentive to dump goods and disrupt Western markets (Holzman 1987a).

It was widely believed that NMEs had incentives to dump exports in order to unload occasional surpluses in stock, to overcome market entry handicaps, to absorb discriminatory tariff and non-tariff barriers, to fulfill state dictated export plans, and to meet shortages of foreign exchange (Marer 1984, 129). When Eastern Europe and the Soviet Union started to experience severe external debt problems in the 1970's and 1980's, dumping exports was a way to quickly raise hard currency reserves and temporarily ameliorate balance of payments deficits (Neuberger and Lara 1977, 29-30). Soviet economic actions during times of crisis were interpreted by the West as proof of the inherent threat that communist imports generally posed to the competitiveness of Western industries.

Political institutions that legitimized the violation of individual liberty, freedom of expression and assembly, and political choice were distasteful to Western liberal democracies. Not only did the West disagree with the political institutions from a normative standpoint, but it also feared the organizational capacity of a highly centralized authoritarian government. As such, both economic and political institutions in centrally planned economies created a belief in the West about the harmful nature of interactions with Communist countries. Looking at the domestic institutions in NMEs, the West derived a belief about the threatening nature of trade with Communist countries.

Third, the Cold War was an ideological confrontation as much, if not more so, than a security confrontation. Ideological differences between capitalism and communism, and the attempt by each ideological orientation to demonstrate its normative supremacy fueled Cold War conflict (Kennan 1947). The Communists believed in the eventual downfall of capitalism and the bourgeoise, since they contained the "roots of [their] own destruction" (see also Lenin 1932; Marx and Engels 1848/1978, 19-20). Lenin predicted the spread of capitalism around the globe and its eventual cannibalization (Lenin 1939). Certainly an ideology premised on the demise of capitalism would appear distrustful to the liberal, democratic West.

Trade was yet another venue for the ideological struggle between communism and capitalism. The West developed a belief that non-market economies had an interest in dumping in order to hurt Western industries. "In the West, dumping by Socialist countries [was] often viewed as a deliberate conspiracy to disrupt Capitalist markets and discredit free enterprise" (Wilczynski 1969, 138). Therefore dumping was an important element of the ideological warfare between the East and the West.

Ideological differences, institutional differences, and strategic differences all combined to create a generalized Cold War belief system in which neither the West nor the East trusted the institutional incentives or interests of the other side. These generalized beliefs about NMEs were interpreted by U.S. and EU trade agencies, and became institutionalized in specific trade laws.

Applying these generalized beliefs to trade laws, the Department of Commerce and the European Commission designed a set of special anti-dumping trade rules to

protect the West from the perceived extraordinary threat posed by trade with NMEs.[17] In applying the Cold War beliefs to trade policy, these agencies developed very specific principled and causal beliefs about the impact of trade with NMEs. The beliefs were principled in that they involved an interpretation of what constituted a "proper" political and economic system (namely capitalist democracies were the best). They were causal in the sense that they embodied a belief about what would happen to the West should it open itself to trade freely with Communist countries. These normative and causal assumptions influenced the development of Western trade institutions.

In this project I examine the effects of specific beliefs in a single issue area. While the Cold War belief system was a generalized system of Western beliefs about Communist countries, I focus on the way that U.S. and EU trade agencies perceived and operationalized these beliefs into specific trade laws and practices. By examining the way trade agencies perceived and acted on beliefs about the harmful nature of exchange with NMEs, one can begin to unravel the causal impact of beliefs on current trade policy and also the nature of belief change. I will turn to these issues in the next sections, providing testable predictions about the nature of belief stasis and belief change.

Cold War Beliefs and Trade Policy: Do Beliefs Matter?

The belief that NMEs were inherently antagonistic and out to harm the West developed in time t=1. This belief was based on a rational appraisal of the capabilities,

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[17] I emphasize the perceived nature of the threat, because evidence has shown there was no real economic threat to the West from trade with NMEs. Practitioners and scholars have concluded "There is little doubt that the alleged [NME] dumping cases have been given an undue amount of publicity in the West, far in excess of the value and repercussions of these transactions. In most cases the amount of goods involved

interests, and incentives faced by NMEs, as perceived by the West during the Cold War. I argue that the beliefs which developed in time t=1, linger and affect outcomes in subsequent time periods. Beliefs about the threatening and antagonistic nature of trade with NMEs continue to affect the administration of trade laws in the post-Cold War period. For example, even when formal trade laws change, the lingering beliefs get in the way of implementing the changes. However, beliefs are not immutable. There is evidence that beliefs are changing with respect to certain countries under certain conditions. Therefore, proving how beliefs matter is a two part process. First, one must demonstrate how beliefs affect the implementation of trade policies, focusing on the *process* of administering the trade laws. Second, one must discuss how the beliefs held by the trade agencies change, and attempt to predict aspects of belief change.

There are various ways to test if and how beliefs about NMEs matter in the application of current trade policy. If one is to demonstrate that beliefs matter, one must show that materialist explanations, such as interest group theories, or theories focused on straight economic or political conditions cannot explain the way NMEs are treated in the international political economy. Then one can look at the points of incongruity between materialist predictions and behavior, in order to demonstrate the causal impact of beliefs. It is in the space between empirical reality and policy practice that one can observe the impact of beliefs.

Materialist explanations would predict that once NMEs have effected sufficient economic and political reforms, they will no longer be discriminated against in terms of international trade. For example, if the problem with trade with non-market economies is

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was small and the sales were not repeated" (Wilczynski 1969, 161). Therefore the perception of threat was

that their centrally planned economic systems allow them to produce goods for export at a loss and thereby dump excess capacity on the international market at cheap prices, then changes to the economic systems of these countries toward more market oriented systems should improve trade relations. Once NMEs reach a level of economic freedom consistent with other developing countries, one would predict that the special trade rules would be removed by the Department of Commerce and the European Commission.

If the problem is that prices have no meaning in a centrally planned system, then when laws are in place privatizing firms and forcing them to operate under prices conditioned by supply and demand and when the currency is convertible, trade protection should decrease. If the problem is that centrally planned economies have state controlled trading agencies, then when there is no longer central direction of foreign trade, there should be changes in patterns of trade protection. In sum, materialist explanations would contend that if NMEs have effected economic transitions approximating market conditions, and are institutionally similar to other "market oriented" developing countries, the old rules should no longer apply to non-market economies.

If beliefs matter, these materialist explanations will not hold true. If Cold War beliefs about NMEs affect current trade policy, the empirical reality of the economic and political reforms in these countries will not be translated directly into policy. If beliefs matter they should discount new information about NMEs. The U.S. and EU trade agencies should be unable to process and act on contrary information about NMEs. Information about changing domestic institutional incentives and changing internationally determined interests will not be fully assimilated by the trade agencies.

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very different from the actual trade threat posed by NMEs during the Cold War.

As disproportionate information processors, the trade agencies may selectively disregard contrary information, such as NMEs look like any other developing country. This will cause the trade agencies to continue to treat NMEs disadvantageously. If beliefs affect trade policy there will be a lag between policy change and policy implementation. This is not an institutional lag, because the institutions themselves are changing. Beliefs will become evident in the lag between institutional change and policy implementation. In essence, if beliefs affect policy, empirical reality will not directly translate into policy change.

In practice, NMEs will be treated worse than similarly situated developing countries. NME countries that have effected the most far reaching reforms may not necessarily be treated better than NMEs at lower stages of economic transitions. Trade agencies may fail to reclassify non-market economies based on their objective economic and political conditions, instead treating NMEs at lower stages of economic reform as more market oriented than NMEs at higher stages of economic reform. Relative to other developing countries and relative to each other, non-market economies will not be treated commensurate with objective assessments of economic and political development. These are all indications that beliefs about the antagonistic nature of NMEs and their threatening trade capacity affect the application of trade policies.

Hypothesis 1: If Cold War beliefs about NMEs affect current trade policy, non-market economies will be treated worse than other developing countries at similar levels of economic development and with similar institutional structures.

Hypothesis 2: If Cold War beliefs about NMEs affect current trade policy, formal rules may change without commensurate changes in the process of administering trade cases or the outcome of those cases.

Hypothesis 3: If Cold War beliefs about NMEs affect trade policy, changes in the treatment or classification of non-market economies cannot be predicted based on material conditions alone. Degree of "market orientation" will not predict the order of non-market economies experiencing policy change.

By examining the process of applying anti-dumping laws to non-market economies we can flesh out inferences drawn from the aforementioned hypotheses. Looking at the way in which cases are administered, not simply the outcome (i.e. protectionism or no protectionism) yields clues about how beliefs are perpetuated, and what might prompt belief change. For example, if information provided by non-market economies is systematically ignored or rejected and trade agencies choose instead to rely on presumptions, one can infer that beliefs are affecting policy making. If NMEs are held to impossible standards because trade agencies are wary of them, one can infer a role for beliefs. This must be supplemented with policy documents, speeches, memos, and interview material, all suggesting that perceptions, assumptions, and beliefs about NMEs are affecting policy.

Demonstrating the inadequacy of materialist explanations is not enough. There also needs to be evidence of beliefs at work. Interviewees should comment on their ideas, beliefs and presumptions about NMEs and how this impacts decision-making. Trade cases should justify discrimination against NMEs based on presumptions about the different and threatening nature of trade with NME type institutions. Qualitative evidence related to perceptions and presumptions about NMEs must also point to a causal role for beliefs. I am not suggesting that I can get into the heads of decision-makers to show that they use beliefs in rendering policy decisions. But I am arguing that sufficient

information exists to demonstrate a causal role for beliefs in the administration of trade policy.

In sum, the above hypotheses are designed to test if beliefs about non-market economies do affect the application of trade laws. In the next section I will conjecture about the direction of Western belief change, namely what countries within the group of NMEs, might experience Western belief change first.

Predicting Belief Change Toward NMEs

Although beliefs are sticky they will change over time. The certainty with which a belief is held affects how sticky it is. If belief change is partially a function of initial belief certainty and new information, beliefs held with less certainty should change before beliefs held with greater certainty. It might be possible to differentiate levels of belief certainty based on an analysis of some of the constitutive elements of the belief. To approximate the level of certainty, I suggest looking at patterns in the underlying conditions which prompted the origin of the belief in the first place. If beliefs are a probabilistic rational assessment of the capabilities, interests, and incentives of NMEs during the Cold War, then one might predict that Western beliefs would be most resistant to change regarding NMEs with more antagonistic interests, capabilities, and incentives. Conversely, NMEs that were perceived to be less antagonistic based on an appraisal of their capabilities, interests, and incentives, might be the first to convince the West to change its beliefs. Therefore, one would predict that belief change is most likely first in countries for which the initial assessment (at time t=1) of incentives and interests was

least antagonistic, and last in countries for which the initial assessment of incentives and interests was the most antagonistic.

All the countries of Central and Eastern Europe, the former Soviet Union, and China were Communist. So according to the Cold War belief system which equated communist with enemy, all the countries were by definition antagonistic and potentially threatening. Of course there were gradations within the Communist bloc. I suggest grouping the countries according to their internationally determined interests, and their domestically determined institutional incentives. Constellations of the two factors should shed light on the mechanism by which one might expect belief change.

At the international level, I suggest one think about NMEs in terms of satellite states and core states. Western perceptions of NME interests are derived from the international structure, core being more threatening than periphery. Since core states would be viewed as the most threatening to the West, beliefs about their antagonistic intentions would be held with the greatest certainty. In contrast, satellite states would be seen as lesser threats than core states, and presumably beliefs about their antagonistic intentions would be held with less certainty. In dividing up the Communistic bloc, it is generally understood that the Soviet Union and China represented the core. These two countries were responsible for the propagation of Communist ideology, and shouldered the security burden for the other countries. The Soviet Union and China were also the nuclear powers who called the ideological and political shots for the other communist countries.

Eastern Europe and Vietnam constituted the satellite states. They followed the ideological direction of the core countries. In the case of Eastern Europe, they followed

the economic direction of the Soviet Union under the Council for Mutual Economic Assistance (Comecom), and were directly influenced by the overt political control of the Soviet Union (Brown 1988, especially chapter 4). The Warsaw Treaty Organization (Warsaw Pact) ensured that Eastern Europe's foreign security policies were directed by the Soviet Union (Brown 1988, especially chapter 2; Simons 1991).[18] Substantial economic and military aid to Vietnam from the Soviet Union helped to keep Vietnam within the Soviet sphere of influence.

At the domestic level, I argue one can divide non-market economies in terms of the orthodoxy of their domestic economic and political institutions. While all non-market economies were by definition centrally planned, communist systems, some NMEs were more orthodox and some more deviant than others. It is possible to roughly divide NMEs along this criterion, by examining the nature of their economic and political institutions, and therefore differentiate among the domestic institutional incentive structures of the NMEs. Economically and politically orthodox countries would have centrally planned economic systems without any type of economic devolution of power. Orthodox countries would have strong one party Communist rule. Moreover, orthodox countries would not have tried to break free of their Communist economic and political institutions. Orthodox countries would not have staged revolutions, or experienced social movements designed to undermine the Communist institutions.

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[18] The Council for Mutual Economic Assistance was founded in 1949. The original members included: the USSR, Bulgaria, Czechoslovakia, Hungary, Poland, and Romania. Albania, the German Democratic Republic and Mongolia joined later. China, Cuba, North Korea, North Vietnam, and Yugoslavia had associate memberships. Khrushchev provides an interesting recounting of intra-Comecon relations in *Khhrushchev Remembers*, especially chapter 10. Chapter 9 also presents an interesting account of the formation of the Warsaw Pact (Talbott 1974).

By contrast, deviant Communist countries would have modified traditional Communist economic and political institutions. Countries that effected economic reform programs to decentralize certain production decisions, or countries that refused to collectivize agriculture, or countries that focused on the production of consumer products at the expense of industrial production would all be considered economically deviant. All these countries would have deviated from the essential precepts of orthodox Communist economics, as epitomized by Russia and China. Any reforms designed to devolve economic power from the state would be considered deviant. Additionally, countries which experienced social revolutions designed to modify or throw off the mantle of Communism would be considered politically deviant. Countries that experienced mini-revolutions against the regime or countries experimenting with multi-party elections would be classified as politically deviant.

One would expect that Western beliefs about the threatening or antagonistic nature of NMEs would be affected by signals about the orthodoxy or deviationism of the countries. Countries that did not embrace communist incentive structures would be less threatening than countries that did. Countries with modified economic systems would not enjoy the same unfair trade advantages as fully centralized economic systems. Governments with a more tenuous hold on political power would also be less threatening than countries with a single party monopoly of political power. Of course all NMEs had communist institutions. They all had some variation of centrally planned, one party Communist systems. Therefore the degree to which these countries are deviant or orthodox is relative to the other NMEs, not relative to the universe of countries in the international system.

Along these two dimensions, international interests and domestic institutions, belief about satellites should change before beliefs about core countries. Beliefs about deviant countries should change before beliefs about orthodox countries. How this maps on a continuum of belief certainty, is partially a function of which variable the West chose to emphasize during the Cold War. Both dimensions of the issue are important, but the timing, issue framing, and ability to grapple with complex information all affect which dimension will be preferenced (Jones 1996; Jones 1994).[19]

In this case, internationally determined interests are the first order concern, and domestically determined institutional incentives are the second order concern. The distinction between satellite and core was particularly important within the context of the Cold War, and it was cognitively easier to discern. Therefore, this factor should have been more important in assessing belief certainty than domestic institutional factors. This does not mean that over time the preference ordering of these two dimensions cannot change. Given a different international environment or difference in attentiveness to underlying attributes, domestic factors might have been privileged over international factors (Jones 1994, 75). However, I am arguing that at the time of belief creation, international factors were a first concern and domestic factors a secondary, albeit important, concern. This theorized relationship between degree of belief certainty and belief change allows for the creation of testable implications.

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[19] Bryan Jones discusses the problems associated with processing information in multi-dimensional spaces. Because of both information uncertainty and various types of cognitive limitations, decision-makers will take multiple attribute issues and narrow the dimensionality in order to render decisions (Jones 1996; Jones 1994, 75). This is the same type of problem that trade agencies faced when trying to ascertain whether interests or institutional incentives were more important attributes about NME behavior to stress.

Figure 2-2 summarizes the hypothesized direction of belief change among the four categories. Beliefs held by the West with the lowest level of certainty should change first, because they will function as the weakest information discounters. Beliefs held with the highest level of certainty should be most resistant to change, because they function as the strongest information discounters. Beliefs in the middle of the continuum are affected by the preferencing of issue dimensions by the trade agencies, as discussed.

Hypothesis 4a: Countries for which the West held antagonistic beliefs with the least certainty should experience an improvement in Western policy first.

Hypothesis 4b: Countries for which the West held antagonistic beliefs with the most certainty should have a hard time changing Western policies, and will experience policy change last.

To arrive at testable predictions of belief change based on measures of belief certainty, I group NMEs according to intersection of internationally determined interests and domestically determined institutional incentives. Table 2-2 shows the way each country would be mapped on the continuum of belief change (figure 2-2). In the following section I provide some historical background about the different non-market economies in order to explain the rationale behind the placement of each country.

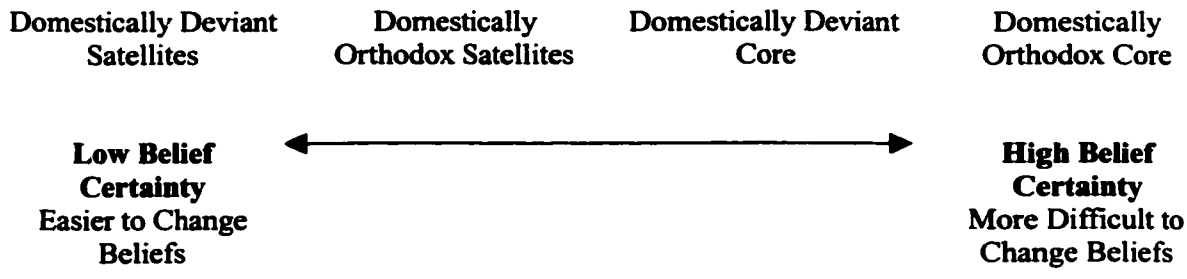

Figure 2-2: Continuum of Certainty Levels by Group: Predicting Belief Change

Table 2-2: Predicting Levels of Belief Certainty

	Domestically deviant	**Domestically orthodox**
Satellites	Czech Republic, GDR, Hungary, Poland, Slovakia	Albania, Bulgaria, Romania, Vietnam
Core	Estonia, Latvia, Lithuania	China, Belarus, Kazakhstan, Russia, Ukraine

Domestically Deviant Satellites

Czechoslovakia, Hungary, Poland, and the German Democratic Republic were satellites of the Soviet Union, and all were domestically deviant in one way or another. Czechoslovakia attempted to break free from Communist style institutions in 1968. The government drew up a plan to implement political pluralism, remove political censorship, and institute economic reforms devolving economic control from the state (Janos 2000, 314-320). Although these economic and political reforms were crushed by the Soviet army in the Prague Spring of 1968, Czechoslovakia continued to protest Soviet rule and Communist institutions through acts of student and intellectual protest, such as Charter 77 (Brown 1991, 166-175; Ramet 1995, 122-134). As such, Czechoslovakia was signaling to the West that it was not as orthodox as the Soviet Union in its adherence to communism.

Hungary experienced both political revolution (1956) and economic reform. Under Kadar's rule in Hungary, the New Economic Mechanism (NEM) was instituted in

1968. This economic reform program devolved control over production decisions to factories and industries and away from the central government (Brown 1988, 200-229). Hungary's relative insubordinate attitudes within the Eastern Bloc were generally recognized by the West as well (Janos 2000, 307).

The GDR also attempted to implement a New Economic System (1963) to decentralize the economy, maintained preferential relations with West Germany, continued to buy products including advanced machinery from the West, and was even a *de facto* associate member of the Common Market (Janos 2000, 307-314). In spite of Soviet involvement in the government of the GDR, the country was not economically or politically orthodox relative to the other NMEs.

Poland was the only NME that did not collectivize agriculture. Collectivization of agriculture was crucial to the function of an orthodox centrally planned economy.[20] Poland also had a history of worker opposition to the Communist regime starting with the Polish Workers' Revolt in 1970 and culminating in the Solidarity Movement. Ramet even goes as far as to say a "parallel society" existed in Poland, working to undermine the regime (Ramet 1995, especially chapter 4). Polish economic and political opposition to communist institutions attests to its relative institutional deviation from the communist norm (Brown 1988, 158-199).

In sum, each of these countries was able to signal to the West that they were not "true believers" through their economic and political reform efforts away from orthodox

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[20] See Janos for a nice comparison of timing and scope of collectivization across Eastern Europe (Janos 2000, 249).

communism.[21] As such, the West should have held beliefs about the inherently antagonistic and threatening nature of these countries with the least amount of certainty.

Domestically Orthodox Satellites

Bulgaria, Romania, Albania, and Vietnam fall into the category of domestically orthodox satellites according to this rubric. None of these countries was a part of the USSR or the People's Republic of China, the main core countries. With respect to their international situation they are satellites. As satellites, beliefs about them will change before beliefs about core countries. Domestically, each of these countries maintained and perpetuated, sometimes even without the assistance of the core, very strong Communist governments. As such, the domestic institutional structures of countries in this category adhered to the principles of orthodox, centrally planned Communist systems.

Although Albania was not aligned with the Soviet Union it embraced a dogmatic brand of neo-Stalinism and was true to Marxist-Leninist understandings of economic and political institutions. The leader of Albania, Enver Hoxha, went even farther than Chinese leadership in ensuring both the collectivization of agriculture and a dogmatic adherence to state controlled production decisions (Brown 1988, 374). Bulgaria remained closely allied with the Soviet Union. Bulgaria was ideologically orthodox and did not deviate from the Soviet/Communist design of its political and economic institutions (Janos 2000, 322). It was not until right before the fall of the Berlin Wall in

[21] Hanson uses the term "true believer" to reflect whether an individual was true to the beliefs of Marxist-Leninism. It is equally applicable in thinking about the degree to which NMEs embraced the dogmas of Communism (Hanson 1991).

1989 that any social dissent began to surface in Bulgaria (Brown 1991, 190-192; Ramet 1995, 279-287).

Romania chose to rebel against Soviet domination, so at first glance it might appear to have been domestically deviant instead of orthodox. Romania withdrew from Soviet economic control in 1964, and denounced the Soviet invasion of Czechoslovakia in 1968 (Brown 1991, 200). However, after gaining some distance from the direct control of the Soviet Union, Romania proceeded to institutionalize a one party monopoly of communist power and a centrally planned economic system. Romania went farther than many countries in "systematizing" the country, or rendering everything homogeneous so as to squelch unrest (204). Romania's brand of orthodox Communism was intertwined with nationalism, but its domestic and economic institutions still looked very similar to those in the USSR. Compared to other NMEs, its highly centralized economic system and tightly controlled political system appeared true to the Communist ideal.

Similar to Romania, Vietnam embraced a mixture of communism and nationalism. Like Romania it also constructed orthodox communist economic and political institutions, including the collectivization of agriculture, a focus on heavy industry, central planning of economic activity, and one party rule. Signaling Vietnam's close affiliation with Communist orthodoxy, it remained one of the USSR's most important client states up until the break up of the Soviet Union (Duncan and Ekedahl 1990, 154; Graziani 1990).

In sum, the countries in this category were satellites, therefore beliefs about them are predicted to change before beliefs about the core. However, each of the countries in

this category retained tightly centralized economic and political systems. Each country adhered to the precepts of Marxist-Leninism, regardless of its allegiances with the Soviet Union or China. If the West has antagonistic beliefs about Communist countries due to their domestic institutions, then the West should have been fairly certain of its beliefs regarding these countries. Therefore although these countries will experience belief change before core countries, beliefs about them will not change as fast as deviant satellites. Domestically orthodox satellites will be the second category to experience belief change.

Domestically Deviant Core

Technically part of the Soviet Union, the three Baltic nations, Latvia, Lithuania, and Estonia, were never at peace with this arrangement. The Baltics were invaded and annexed by the Soviet Union during World War II, and continued to resist Soviet rule until September 1991, when the Soviet Union recognized the independence of all three states (Simons 1991, 47). During the Cold War there were numerous riots and rebellions against Soviet rule, including riots in Lithuania in 1956, 1960, and 1972, in Estonia in 1972, 1976, and 1977, and in Latvia in 1977 (Plakans 1995; Raun 1991). In August 1979, 45 Baltic activists issued a declaration calling for the restoration of Baltic Independence. The Baltics even addressed the United Nations Secretary General in 1980, appealing to Western powers to recognize the unjust Soviet occupation of the countries (Institute of Baltic Studies: Arts and Humanities 2001).

These examples of repeated, sustained politically unorthodox behavior were signals to the West of the lack of commitment that the Baltics had to communist political

and economic institutions. Therefore, although part of the Soviet core, the West should have been relatively uncertain about the degree to which these countries were inherently antagonistic and threatening to the West. However, these countries did not effect any economic reforms. They were firmly under Soviet control. Therefore assuming that the West constructed its beliefs based on a rational assessment of the incentives and interests of the countries, the West would hold beliefs about the antagonistic tendencies of these countries with more certainty than satellite countries but with less certainty than the orthodox core category. As a result, one would predict these countries would be the third group of countries about whom Western beliefs would change.

Domestically Orthodox Core

The domestically orthodox core countries set the example for all the other NMEs. Institutionally orthodox countries that are part of the strategic core should be the last group of countries for which Western beliefs will change. If belief certainty is a function of an assessment of interests and incentives, this group of countries left the least room for Western doubt about the antagonistic nature of these countries. Since the West held beliefs about these countries with the most certainty, one would predict that these beliefs would be the most resistant to change. Beliefs about the hostile and threatening nature of these countries will linger the longest in the face of contrary information, and function as the greatest information discounters.

This is not to deny that reform efforts did take place in the two primary core countries. Russia and China each experimented with slight institutional modifications to Marxist-Leninism, yet remained steadfast supporters of and adherents to central planning

and a one party Communist monopoly of political power. Social dissent was summarily suppressed, and economic reforms were cautiously designed to enhance but not disrupt the centralization of the means of production. Any economic reforms that were too deviant were reversed. For example, economic decentralization was toyed with during China's Great Leap Forward (1958-1960) but this was subsequently remanded (Fairbanks 1986, 296-315). Similarly, Khrushchev attempted some devolution of economic control to *Sovnarkhozy* (Council of the National Economy), and a shuffling of party positions giving ordinary citizens more say in political decisions (Hosking 1990, 344-347). Each of these reforms was met with resistance, and once Khrushchev was removed from power they were reversed. In essence, the core, institutionally orthodox countries remained true to the image of a centrally planned, Communist totalitarian regime as described by Janos Kornai in his famous work *The Socialist System* (Kornai 1992).

Ukraine, Kazakhstan and Belarus belong in this orthodox core category for three main reasons. First, these countries had nuclear weapons. Only four Soviet republics had nuclear capabilities: Russia, Ukraine, Kazakhstan, and Belarus. Second, these republics were economically and strategically important to the Soviet Union. Ukraine and Kazakhstan were large agricultural producers. Belarus was strategically posed between the U.S.S.R. and Europe. Third, prior to the break-up of the Soviet Union, Ukraine, Kazakhstan and Belarus were the most ideologically important republics apart from Russia. These countries actively supported the agenda set by Russia and were populated by large Russian minorities. In sum, these republics were economically powerful, nuclear equipped, and strongly aligned with the Russian/Soviet agenda. All of these factors make them core, orthodox states.

Putting this discussion of the country groupings back into a perspective of degree of belief certainty, one can postulate a testable hypothesis.

Hypothesis 4c: Beliefs about deviant satellites should change first, and beliefs about orthodox core countries should change last. Within the middle of the continuum, beliefs about orthodox satellites should change before beliefs about deviant core countries.

Given the differences between the United States and the European Union's attitudes to the Communist Bloc during the Cold War, one can also predict some variation in their responses to the changes going on within non-market economies. In predicting differences in behavior between the EU and the United States, material conditions such as institutional safeguards and iterated interactions come into play. Beliefs are not doing all of the leg work in explaining different patterns of behavior between the U.S. and EU. Instead material conditions interact with beliefs to affect U.S. and EU relations with NMEs.

The United States was the archenemy of the Soviet Union during the Cold War. The United States was dogmatically anti-Communist, actually persecuting U.S. citizens that were members of the Communist party (McCarthyism in the 1950s). The United States developed the concept of the global containment of communism, and was the muscle behind enforcing it. In contrast, Europe did not exhibit the same virulent anti-Communism exhibited by the United States. European governments allowed Communist parties to participate in government. As Gaddis explains with regard to the policy of containment, "the [U.S.] administration had done little publicly to explain that all communists were not equally dangerous" (Gaddis 1982, 102). Europe was more aware of differences between non-market economies, and was able to differentiate its policies

toward Eastern Europe from those toward the Soviet Union. Ideologically speaking one would have predicted that the United States would hold beliefs about the antagonistic interests and threatening nature of trade with NMEs with more certainty than the European Union.

However, ideologically infused perceptions of Communist countries as threatening are only one factor differentiating the European Union from the United States. Institutional safeguards and iterated interactons, as well as geographic proximity are all factors which affected European beliefs about NMEs. Europe continued to have multi-level interactions with Eastern Europe. West Germany, in particular, maintained links with East Germany. As already mentioned, East Germany was *de facto* an associate member of the Common Market (Janos 2000, 307-314). Europe traded more with Eastern Europe than the United States did, thereby maintaining regular interactions with these countries. Regular interactions and institutional safeguards are both important intervening factors that can affect the nature of belief certainty and belief change.

Additionally, geographic proximity should factor in to the EU's beliefs about NMEs. Geographic proximity encourages interactions and information exchanges. Interactions affect levels of belief certainty, by constantly introducing new information about the interests and incentives of NMEs. Actual empirical information about NME interests and incentives should weaken the resolve of the belief that the countries were inherently antagonistic and that trade with them was necessarily harmful. Therefore, frequency of interactions and the establishment of institutions to facilitate exchange promoted by geographic proximity would be hypothesized to reduce degree of belief certainty. Geographic proximity enhances the opportunities to develop institutions and

exchange relations, which in turn affect beliefs about NMEs. Given the immediate geographic proximity of Eastern Europe and the concomitant frequency of interactions and institutional safeguards, one would hypothesize that differences in U.S. and EU treatment of NMEs would be most acute with respect to Eastern Europe.

In sum, due to both ideological differences and differences in material conditions such as institutional safeguards, frequency of interactions, and geographic proximity, one would predict differences in levels of belief certainty between the United States and European Union. The EU should hold beliefs about the threatening nature of trade with Communist countries with less general certainty than the United States. Areas of difference should be most apparent over the treatment of Eastern Europe. If certainty of beliefs affects the timing of belief change, one would predict that U.S. negative beliefs about non-market economies would linger longer than EU beliefs.

While U.S. attitudes toward the Soviet Union and China have softened in the 1990s, this does not necessarily mean that U.S. belief certainty would be less relative to Europe. Europe also softened its approach to the former Communist Bloc in the 1990s. Therefore even taking into account some fledgling belief change toward NMEs on the part of both the United States and EU, relative to each other, the U.S. would still hold beliefs about the threatening nature of trade with Communist countries with more certainty than the European Union.

Hypothesis 5: The European Union should improve its treatment of imports from non-market economies before the United States, because they were less certain of the inherent danger of trade with communist countries than the Americans.

Belief certainty is only one piece of the puzzle of belief change. Information about changes in empirical reality must reach the party holding the belief for there to be belief change. Institutions and positive interactions between NMEs and the West both impact the empirical conditions structuring trade relations and will thereby affect beliefs. Positive exchange relations, be they economic, political, or social, will encourage more exchanges. Exchange relations transmit information about the reliability of the parties, the trustworthiness of the parties, and the interests of the parties. As NMEs join more international institutions, such as the General Agreement on Tariffs and Trade/World Trade Organization, or the European Union, these institutional safeguards should encourage more interaction and promote belief change. In sum, as new information about the interests and incentives of non-market economies is transmitted to the West via increased exchange relations and institutions, this should work to change the beliefs. In this respect beliefs, institutions, interactions, and material conditions work together to effect changes in the process of administering trade laws and practices to NMEs.

Testing a Belief Hypothesis

John Hall provides some cautionary advice for testing the causal role of beliefs. When trying to assess the effects of ideas, the best way:

> is to recognize the lags that occur between institutional and ideational change. As long as the fit between idea and circumstance remains tight ... it is impossible to specify an independent ideational impact. But those occasions when circumstance changes and response remains culturally bound do allow us to study ideas as an independent variable (Hall 1993, 46).

If empirical conditions, be they economic or political, predict and explain the treatment of NMEs by the West, then there is no room for beliefs in this analysis. Interests can explain changes in policies. However, if the empirical circumstances predict one thing, but the European Commission and U.S. Department of Commerce act differently, then there is room to explore a belief based hypothesis.

As such, in this project I examine cases in which the circumstances change but the policies do not. I examine cases in which Western formal trade laws change, but their implementation remains the same. I examine how non-market economies are changing, but the process of administering cases against them does not change. The process of administering the cases is a way to unearth change in the beliefs affecting the process of administering trade protection. Using a comparative case study design for this research I am able to hold some factors constant in order to discern the root cause of policy stasis.

I argue that both the U.S. Department of Commerce and the European Commission Directorate in charge of external trade relations were influenced by Cold War beliefs about NMEs and integrated these belief into their formal laws and informal procedures. Each of these agencies has different "organizational cultures," hires analysts from different educational backgrounds, has different turn over rates, and divides responsibility for administering certain elements of the anti-dumping law in different ways. However, there is a remarkable similarity in their interpretation of cases involving non-market economies. Comparing the trade administrations in the two countries will allow me to highlight key differences and similarities which will help in elucidating the effect of beliefs on trade policy.

The structure of my project allows me to rule out bureaucratic idiosyncrasy as an explanation for trade protection against NMEs. Since we see the same method of administering anti-dumping cases in both the U.S. and EU cases, in which there are different domestic institutions, different bureaucratic cultures, and different educational and professional backgrounds of the workers, bureaucratic idiosyncrasy does not hold up as a plausible explanation. As such, I will not explore this as an alternative hypothesis but will let the results of the comparative case study affirm my assertions.

Looking at the causal role of beliefs has explanatory and predictive limitations. Beliefs cannot predict upward and downward trends in the number of anti-dumping cases initiated against NMEs each year. Beliefs do not change each year, and do not have such an one-to-one effect on the outcome of trade protection. Trends in the volume of trade protection cases are partially a function of domestic and international economic fluctuations. I started this section by arguing that beliefs complement interest based accounts of trade protection. In this project beliefs do not supplant interest based accounts. Clearly there is a material interest component to trade policy. However, pure interest based accounts cannot explain patterns of trade protection against NMEs, so I turn to the role of beliefs to better understand U.S. and EU trade policy toward non-market economies.

International political considerations, such as beliefs about a country, are not traditional explanations of patterns of trade protection. There are a host of theories derived from political economy studies to explain incidence and intensity of trade protection. I summarize this literature in the following sections and derive hypotheses to

test the validity and explanatory power of these alternatives against a belief based hypothesis.

Domestic Economic: Trade protection as a function of domestic economic factors

Domestic economic factors are potentially powerful explanations for patterns of trade protection against non-market economies. Since trade protection is designed to protect firms or industries in economic distress, it is logical to look to domestic economic factors to explain patterns of protection. The hypotheses generated by these theories focus on the sector's economic vulnerability or competitiveness in explaining incidences of trade protection (Frieden 1988). More economically vulnerable or sensitive sectors gain more protection than less economically vulnerable sectors. For example, industries with declining profitability will be awarded more trade protection to allow them some respite from international competition and a chance to improve their economic fundamentals (Banks 1993).

Certain sectors that are routinely in economic distress, and recipients of trade protection have been labeled "sensitive sectors." The domestic economic factors typically examined to determine if an industry is "sensitive" and qualifies for trade protection include low firm profitability, declining employment, drops in domestic shipments, decreasing domestic wages and low value-added. Sectors traditionally labeled "sensitive" include agriculture, textiles, steel, chemicals, and footwear (Brenton and Mauro 1998; OECD 1994). When conjecturing on why there are so many anti-dumping cases against NMEs, it is often argued that NMEs produce the same products as

"sensitive domestic industries." Therefore, NMEs are more likely to spark trade protection because of the nature of their export commodities.

To test the utility of sensitive sector explanations for trade protection, the level of value-added of the industry is often used. Some argue that low value-added industries are more likely to lobby for trade protection. Low value-added industries include low technology, labor intensive industries producing relatively fungible products (chemicals, steel, basic agricultural goods) that compete based on price (Clark 1980). Low value-added industries are most affected by cheap imports from developing countries, because developing countries are able to produce like products for less money due to low labor costs. Therefore, value-added level might be one predictor of what type of industry will ask for trade protection.

Moore analyzes the relative importance of industry level economic factors such as changes in domestic employment rates and nominal wage levels, and demonstrates that low wage industries are more likely to get protection than high wage industries (1992). In fact, his study provides strong evidence against interest group based theories and for theories grounded in domestic economic variables. Industries with high wages and profit rates should have excess funds for lobbying, which would support political interest group theories. However, these industries are not more successful in achieving anti-dumping protection. Instead there is a preference for low wage industries even if they have less funding for political lobbying.

Others argue that low value-added industries do not receive more trade protection than high value-added industries. Hansen contends that low value-added industries already receive high levels of trade protection and are unlikely to win more. Therefore,

Table 2-3: Sample of High, Medium and Low Value-added Sectors

High Value-added			
Oil	Aspirin	Semiconductors	Dry photo film
Eproms	Nitrocellulose	Sulfanilic acid	Saccharin

Medium Value-added			
Tin products	Cooking ware	Wire rod	Paper products
Batteries	Picture tubes	Cold rolled steel	Rubber products

Low Value-added			
Paintbrushes	Bauxite	Foam	Ethanol
Fertilizer	Uranium	Bicycles	Raspberries

Source: Author's calculation based on sample of anti-dumping cases used in chapter 3. Value-added figures from *Annual Survey of Manufactures: Statistics for Industry Groups and Industries (various years)*; *Mining-Industry Series: Economic Census (various years); NBER-CES Manufacturing Industry Database, 1958-1996;* and Department of Commerce, GDP: Implicit Price Deflator.

they are less likely to initiate trade cases because the cost of trying to obtain more protection would exceed the benefit (Hansen 1990, 31). Still others have shown no significant relationship between value-added and protection (Cheh 1976).

Given my interest in whether trade protection against non-market economies can be explained by simply looking at domestic economic criteria, I choose to test the theories that low value-added industries and industries with declining profitability are more likely to win trade protection. It is widely argued that the reason NMEs are more prone to anti-dumping trade protection than other types of countries is because they tend to be producers of price-sensitive, labor intensive, low value-added primary exports that directly compete with declining industries in advanced industrialized economies (Brenton and Mauro 1998; Ehrenhaft et al. 1997; Eichengreen and Kohl 1998; Winters, Rubin and Bond 1998). The economic condition of domestic competing industries and the composition of NME exports would therefore explain the incidence of protection.

If value-added level and industry profitability can explain trade protection against NMEs, this is a strong indication that non-market economies bear the brunt of trade protection due to the nature of their export commodities not antagonistic beliefs about them. This would be evidence against a belief based hypothesis.

Alt. Hypothesis 1: Low value-added industries are more likely to win trade protection than high value-added industries because they are more price sensitive.

Alt. Hypothesis 2: As the profitability of an industry declines, it will be more likely to win trade protection.

Finally, domestic economic theories suggest that the macroeconomic conditions of the importing country affect whether an industry is granted trade protection. During periods of economic slowdown, industries will be more vulnerable to import competition. Declining real Gross Domestic Product (GDP) or rising rates of unemployment will exacerbate the effects of increased import competition. Therefore, macroeconomic conditions should have an interactive effect with some of the other variables. During an economic boom, increased import competition is not predicted to have the same adverse effects on domestic industries as during an economic bust cycle. Macroeconomic conditions have an overt political component as well. Congress or trade representatives may be more likely to award an industry trade protection during an economic slowdown than during a period of relative prosperity.

Alt. Hypothesis 3: During periods of macroeconomic decline, industries will be more likely to receive trade protection.

Domestic Political: Trade protection as a function of the political power of domestic industries

Many theorists argue that trade protection is a function of the political power of domestic interest groups. They contend trade protection is awarded to those interests that wield political clout and are able to translate this political clout into favorable trade policies. Various studies have demonstrated the relative strength of interest groups in determining tariff levels (Findlay and Wellisz 1982; Schattschneider 1935). Some have demonstrated the importance of interest group constituencies to politicians (Bailey, Goldstein and Weingast 1997; Baldwin and Magee 2000; Magee, Brock and Young 1989), or the ability of trade related interest groups to gain protection by overcoming collective action problems (Gowa 1988). Others have focused on the distributional issues related to trade which divide and motivate interest groups (Milner 1987; Rogowski 1989). All have theorized that interest groups affect patterns of trade protection.

With regard to trade protection against non-market economy imports, these theories would suggest that NMEs export goods that compete directly with those domestic industries that wield substantial political power. Again the nature of the export composition of NMEs explains patterns of trade protection, not beliefs about non-market economies. These theories would suggest that country of origin of imports does not matter. What matters is the fact that foreign imports are competing with domestic imports, and the domestic industries have the political power to stop or limit foreign competition. According to these theories, one should expect that steel from China and Russia, should face the same levels of trade protection as steel from India and Britain. It is the nature of the commodity not the nature of the country that matters.

There are two schools of thought regarding the manner in which interest groups affect levels of trade protection: "capture theories" and "congressional dominance theories" (Hansen 1990). Capture theories argue that interest groups compete and form coalitions among themselves in an attempt to "capture" politicians and policymakers who will then enact policies to support the interests of the winning group (Gourevitch 1986; Olson 1965; Stigler 1971). Some theorists have also referred to this as the "adding machine model" in which politicians trying to maximize their chances for re-election and monetary support champion the cause of the group with the most power, measured in terms of voting capacity (Baldwin 1985b; Conybeare 1991).

One of the canon examples from the literature is Schattschneider's argument that high tariffs in 1930s resulted from Congress' granting protection to politically influential interest groups (Schattschneider 1935). More recent examples include Brock and Magee's argument that politicians calculate their expected returns from supporting the interests of special lobbies and vote accordingly (1978). Similarly, Messerlin describes the potential power of interest groups to capture agencies and win protection by examining the influence of agricultural lobbies on agricultural bureaus (Messerlin 1981). Tharakan has even argued that there is a link between lobbying activity and the tenacity of anti-dumping practices (Tharakan 1999). More recent capture theory work incorporates the mediating effects of institutions on the power of interest groups.[22] For example, recent work has shown that political parties (Epstein and O'Halloran 1996) and the structure of political institutions and agencies (Baldwin 1985b; Destler 1992) affect who gets trade protection.

Within this institutionalist vein, the congressional dominance school of thought examines how the institutional structure of Congress in particular and its relations with other agencies affect the making of trade policy. In these theories, special interest groups lobby Congress, and Congress directly influences the policy outcomes of political agencies (Shepsle and Weingast 1987). Congress can affect agency budgets or appointments, thereby exercising a degree of influence. More specifically, Congressmen take positions on committees which are relevant to their special interests, sanctioning or rewarding agencies based on their personal interests (Weingast and Moran 1983, 768-9). Hansen and Moore have shown that even a supposedly "insulated" agency like the International Trade Commission still renders decisions that appear to be influenced by partisan politics and Congressional oversight (Hansen 1990; Moore 1992). Perhaps the strongest advocate of the influence of Congress on trade policy, O'Halloran argues, "the organization of Congress, the institutional details of the House and Senate, and the procedural arrangements designed by Congress to implement legislation shape [trade] policy" (O'Halloran 1994, 6).

There are several problems with interest group theories in general, and with congressional dominance models in particular. A key problem with this approach is its lack of *a priori* predictive strength. Interest group theory "tends to lack theoretical rigor and predictive value, largely because it lacks an independent measure of group power" (Ikenberry, Lake and Mastanduno 1988, 8). An interest group is only powerful after it has achieved a specific outcome, therefore there is no objective measure of power apart from influence over outcomes.

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[22] For a discussion of the important role of institutions as a force mediating the interests of actors see Moe

More specifically many scholars have shown that special interest models have limited explanatory capability when subjected to empirical testing (Anderson 1993; Goldstein 1988; Lake 1988b; Trefler 1993). There is also confusion about the results of interest group studies. For example, studies of Political Action Committees (PACs) have yielded conflicting results showing that PACs do not really use their leverage to sway votes (Magelby and Nelson 1990), that PACs have negligible capacity to influence voting outcomes (Baldwin and Magee 2000), and alternatively that PACs have a substantial impact on Congressional voting patterns (Stratmann 1991). The inconsistent evidence calls into question the generalizablity of theories based on the impact of interest groups, and highlights their susceptibility to measurement problems.

With respect to congressional dominance models, it is hard to show direct congressional control over trade policy implementation because neither Congress nor elected officials administer trade policy. Anti-dumping laws are a case in point. The International Trade Commission and International Trade Administration were specially designed to insulate them from Congressional influence. Looking to Congress to understand trade protection is not particularly useful, because "trade restrictions are hardly ever voted directly by Congress... pressure for protection is usually applied through the major instruments for the administrative regulation of imports" (Finger, Hall and Nelson 1982, 452). Even studies which have shown congressional influence over certain agencies are not generalizable because Congress does not exert the same type or intensity of influence over all agencies (Weingast and Moran 1983).

1990; and North 1990.

In spite of the criticism, interest group theories remain important and robust political economy theories. There are numerous domestic political variables developed to test the importance of interest group explanations of trade protection. These include an examination of the size (measured in employees and revenue), concentration, degree of unionization, and skill level of the industry. It is hypothesized that the larger an industry, the more money it has for political lobbying, and the more voting constituents it comprises, thereby increasing its political clout. It is also hypothesized that high industry concentration and high degrees of unionization will increase the chances of trade protection, because workers will be better able to overcome collective action problems and unite in their call for trade protection. Finally, the skill level of workers in an industry affects the probability of trade protection. As Baldwin and Magee explain,

> In view of the international competitive disadvantage faced by U.S. producers of traditional manufactures that intensively use less skilled labor, one would expect producers and workers in such industries to exert political pressure on legislators to vote against trade liberalizing measures. In contrast, producers and workers in technologically advanced, skill-intensive industries are likely to support increased trade liberalization, since this tends to increase exports, profits, and wage levels in these industries. Thus legislators representing districts or states with high proportions of less-skilled workers and industries facing significant import competition are likely to oppose market opening trade policies, since they risk not being re-elected if they do not do so (2000, 15).

In determining which factors to examine in my analysis I have looked to confirming and disconfirming evidence provided by theorists of trade policy. Kreuger and Trefler have separately demonstrated that the degree of protection afforded to an industry is not correlated with lobbying variables such as unionization (Krueger 1996; Trefler 1993). Finger, Hall and Nelson have shown that the size of an industry but not its concentration has an effect on trade protection (Finger 1981; Finger et. al. 1982). This is

especially true with anti-dumping trade remedies, since the "trade problems of big industries will be worked out through a more political mechanism than the technical less than fair value complaint-response-decision procedure" embodied by anti-dumping laws (Finger 1981, 275). More political mechanisms might include 301 trade relief, voluntary export restraints or negotiated quotas or price rises.

Given the data and theoretical limitations of some of the variables, in this project I have chosen to examine the size of the industry (in terms of employees and voting power) and its value-added per employee, as a proxy for the skill level of the industry. It is possible that both/either of these variables can explain patterns of protection against non-market imports. Both of these measures have proven important in other studies and have strong theoretical predictions. Both theories could refute a belief based hypothesis, if they were able to demonstrate that trade protection against non-market economies is simply a function of their export compositions.

Industry size in terms of employees and value-added level are also possible to examine at the 4-digit Standard Industrial Classification level. This allows for a mid-range level of analysis that is consistent across time and industry. Other measurements, such as industry concentration and unionization are not available at this level of detail, and have proven inconsequential in other studies. Therefore I have not included them in my analysis.

I believe it is important to examine the influence of interest groups at a mid-range level of detail (such as the 4 digit SIC level). Many studies aggregate industry level data so they are examining entire sectors, such as the steel sector or the agricultural sector writ large. This results in grand generalizations about these sectors, when in actuality there is

great divergence within sectors. For example, a small steel mini-mill producing specialized steel plate is not the same as a large, unspecialized old style steel mill producing large quantities of cold-rolled steel. One needs to unpack the sectors to figure out what about the sector or the product triggers trade protection. For this reason the strength of PACs is generally not used because this data is not available at the sub-industry level across time, and therefore requires too high a level of aggregation.[23] Using such a high level of aggregation costs the analysis meaningful variation within the overarching industry, and renders the analysis unable to explain which industry sub-sectors do or do not receive protection.

Alt. Hypothesis 4: The larger the industry, the greater the chances for trade protection because it will exert more influence in money and voting terms over Congress.

Alt. Hypothesis 5 (related to alt. hyp. 1): Low value-added industries (unskilled workforce, traditional economic sectors, labor intensive) will be more likely to win trade protection than high value-added industries because they are more politically sensitive.

International Economic: Trade protection as a function of international economic factors

International economic explanations relegate politics to a minor role, if any, in accounting for patterns of trade protection. These theories focus on import penetration, import volume, and sudden changes in imports to explain changes in patterns of trade protection (Finger and Murray 1990; Goldstein 1993; Krugman and Baldwin 1990). In these theories, there is a direct, positive relationship between incidences of trade protection and increases in imports (Ehrenhaft et al. 1997; Vandenbussche 1996). Finger

[23] Moreover, there is a lack of empirical evidence to support the theory that PACs influence patterns of trade protectionism. Even when looking at the most likely cases, such as tariff levels, PACs demonstrate

has demonstrated a positive relationship between changes in import volume and trade protection, specifically anti-dumping trade protection (Finger 1981). Trefler and others have demonstrated that high levels of protection are found in industries with significant import penetration (1993, 130).

These theories would predict that trade protection against non-market economies can be explained by looking at the volume of NME exports to the West. These theories predict that NMEs are the subject of an unusual number of dumping cases because of their high export volumes to the West, and the high import penetration levels of their exports. According to this very simple explanation of trade protection, non-market economies are subjected to more anti-dumping cases than other countries because they are in fact dumping, namely selling large quantities of low cost goods on Western markets. If international economic explanations can account for patterns of trade protection against NMEs, there is no reason to think beliefs about non-market economies affect trade policy.

According to these theories, not only is there a positive relationship, but there is a rough proportionality between trade and trade protection. For example, it has been shown that for developing countries and developed countries as groups, the proportion of antidumping cases is about the same as the relative proportion of U.S. imports (Finger 1981, 272; Finger 1991, 1). This is interesting because level of country development is not a factor in these explanations of trade protection.

I have already addressed part of the relationship between trade volume and trade protection in chapter 1. This relationship is part of the very empirical puzzle motivating

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statistical significance but lack substantive significance in explaining incidences of trade protection

this study. The figures in chapter 1 (figures 1-3, 1-4, 1-5, 1-6) demonstrate a rough positive relationship between percentage total imports and percentage total anti-dumping cases for most country groups except non-market economies. Figures 1-1 and 1-2 show that there is no correlation between change in imports and change in anti-dumping cases over time for either the United States or the European Union in trade involving non-market economies. This is puzzling. While total trade does not bear out the proposed direct, positive economic relationship between trade volume and trade protection for NMEs, this level of aggregation might mask a relationship between industry level import changes and trade protection. In the statistical chapter I probe this relationship a bit more, examining if change in imports at the industry level instead of country level can explain patterns of trade protection.

There are two ways of measuring the import threat posed by foreign imports, namely changes in import volume and levels of import penetration. Import penetration is a static measure, and change in import volume and/or change in import penetration are dynamic.[24] Each tells us something a little different about the nature of foreign competition. The literature predicts that sectors with high levels of import penetration will be more likely to seek protection than sectors with low levels of import penetration. High import penetration means more foreign competition for domestic sales, thereby directly threatening the economic success of domestic industries selling like products. Change in import volume reflects the changing international conditions affecting a sector. Theoretically speaking, changes in import volume should be a good predictor of when an

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(Baldwin and Magee 2000).

anti-dumping case is likely to be initiated, since a rapid increase in imports is part of the very definition of dumping. To capture both types of potential import threats, the two measures of import activity are included.

Alt. Hypothesis 6: Industries with high import penetration will be awarded higher levels of trade protection than industries with low import penetration.

Alt. Hypothesis 7: As the import volume of goods in an industry increases, that industry will receive more trade protection.

Conclusion

In this chapter I have reviewed trade literature on protectionism, and derived testable hypotheses based on theoretical and empirical evidence. I divided traditional international political economy theories into four broad categories based on the locus of effect on trade protection: domestic political factors, domestic economic factors, international economic factors, and international political factors. Using this two by two rubric, I reviewed traditional theories stressing the importance of interest groups, sensitive industries, international economic competition, and congressional dominance in explaining patterns of trade protection. I constructed hypotheses based on these different theoretical orientations to test in later chapters.

I suggested that international political factors, such as beliefs about the intentions of trading partners, are important, under-explored variables in explaining patterns of trade protection. Specifically, I developed an argument about the effects of Western Cold War beliefs on current exchange relations between the East and West. The West believed that

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[24] IPE literature uses both terms, so there is adequate theoretical justification for the use of either measure. In keeping with previous studies analyzing patterns of anti-dumping trade protection, I have chosen to use change in import volume.

NMEs posed an extraordinary threat to trade, and this belief continues to hinder the normalization of trade relations. Beliefs needs to be considered in concert with traditional political economy theories, in order to explain the discriminatory treatment of NMEs. I then proffered testable predications about the type of belief change one should expect to see in East-West relations, focusing on initial Western levels of belief certainty. I will test the primary and alternative hypotheses in the following chapters.

Summary of Hypotheses

International Political: Belief Based Hypothesis

Hypothesis 1: If Cold War beliefs about NMEs affect current trade policy, non-market economies will be treated worse than other developing countries at similar levels of economic development and with similar institutional structures.

Hypothesis 2: If Cold War beliefs about NMEs affect current trade policy, formal rules may change without commensurate changes in the process of administering trade cases or the outcome of those cases.

Hypothesis 3: If Cold War beliefs about NMEs affect trade policy, changes in the treatment or classification of non-market economies cannot be predicted based on material conditions alone. Degree of "market orientation" will not predict the order of non-market economies experiencing policy change.

Hypothesis 4a: Countries for which the West held antagonistic beliefs with the least certainty should experience an improvement in Western policy first.

Hypothesis 4b: Countries for which the West held antagonistic beliefs with the most certainty should have a hard time changing Western policies, and will experience policy change last.

Hypothesis 4c: Beliefs about deviant satellites should change first, and beliefs about orthodox core countries should change last. Within the middle of the continuum, beliefs about orthodox satellites should change before beliefs about deviant core countries.

Hypothesis 5: The European Union should improve its treatment of imports from non-market economies before the United States, because they were less certain of the inherent danger of trade with communist countries than the Americans.

Alternative Hypotheses

Domestic Economic

Alt. Hypothesis 1: Low value-added industries are more likely to win trade protection than high value-added industries because they are more price sensitive.

Alt. Hypothesis 2: As the profitability of an industry declines, it will be more likely to win trade protection.

Alt. Hypothesis 3: During periods of macroeconomic decline, industries will be more likely to receive trade protection.

Domestic Political

Alt. Hypothesis 4: The larger the industry, the greater the chances for trade protection because it will exert more influence in money and voting terms over Congress.

Alt. Hypothesis 5 and 1: Low value-added industries (unskilled workforce, traditional economic sectors, labor intensive) will be more likely to win trade protection than high value-added industries because they are more politically sensitive.

International Economic

Alt. Hypothesis 6: Industries with high import penetration will be awarded higher levels of trade protection than industries with low import penetration.

Alt. Hypothesis 7: As the import volume of goods in an industry increases, that industry will receive more trade protection.

Chapter 3: Statistical Tests of the Hypotheses

Introduction

In this chapter I test the traditional political economy hypotheses derived from the literature in chapter 2 (alternative hypotheses #1-7). I test the efficacy of domestic political factors, domestic economic factors, international economic factors, and take a preliminary cut at international political factors to explain patterns of trade protection in general and specifically against non-market economies.

If traditional political economy explanations can explain the use of anti-dumping laws against non-market economies, this diminishes the need for a belief based hypothesis. Beliefs might matter, but if material interests can explain trade protection against NMEs, there is little to be gained by also looking at beliefs about NMEs. However, if the traditional explanations fall short in accounting for trade protection against NMEs, this provides compelling evidence that one should delve further and explore ideational factors. If the traditional explanations can account for most trade protection against other countries but not non-market economies, this provides even stronger evidence that there is something else going on in NME trade cases. That something, I will argue, is a belief about the different, threatening nature of trade with Communist countries.

Independent Variables

Domestic Political Factors

At the domestic level I examine the political strength of industry interest groups by looking at the size of the industry, measured in terms of employment levels, and the value-added per employee. It is hypothesized that as the number of workers increases the amount of trade protection awarded increases. More workers mean more voters. This is consistent with congressional dominance and interest group theories focusing on the ability of interest groups to capture politicians and win trade protection. In addition, larger industries have more money for political lobbying. Large industries can afford larger political contributions than smaller industries, and have more political clout. There is a hypothesized positive relationship between industry size and protection. I also test whether low value-added industries are more likely to win trade protection. Low value-added industries employ unskilled or semi-skilled workers in labor intensive industries in historically important sectors. These "bread and butter" industries, like agriculture, steel, and textiles, are also hypothesized to win more trade protection than other industries because they are politically sensitive. There is a predicted inverse relationship between value-added per employee and trade protection.

Domestic Economic Factors

I examine three domestic economic factors: the economic vitality of the industry, the price sensitivity of the industry, and the overall macroeconomic condition of the country. To capture the economic vitality of the industry I examine the profitability of the industry, by constructing a lagged profitability variable taking industry value-added less wages over industry shipments [(valadd-wages)/ind shipments]. Using this relative profitability scale of 0-1, I am able to compare the relative profitability of a broad range

of industries, from supercomputer to hairbrush manufacturers. There is a hypothesized inverse relationship between profitability and trade protection. As the profitability of an industry goes down, the trade protection awarded should go up.

Low value-added industries should win more trade protection than high value-added industries because they are more price sensitive. Low value-added industries compete in low margin markets, in which the price differentials between basically homogeneous products are small. For example, there are no substantial price differences between brands of wheat or between cold rolled steel products. One predicts an inverse relationship between value-added per employee levels and trade protection. This is the same empirical hypothesis as the domestic political hypothesis, although with a different theoretical justification.

Finally, as the macroeconomic condition of a country declines, one would predict more trade protection. This is true for both political and economic reasons. Politicians are more likely to approve trade protection when there is an economic downturn, since their chances for re-election might suffer in the face of an economic crisis. Additionally, during periods of macroeconomic decline, industries will display adverse economic fundamentals. Industries may sell fewer products, have higher inventory levels, may lay off workers, may be forced to lower prices to compete with imports, and may have declining profitability levels. All of these financial factors are supposedly considered by U.S. trade agencies when rendering anti-dumping decisions. I look at both changes in real GDP and changes in unemployment rates to ascertain changes in a country's macroeconomic conditions. As GDP declines, trade protection should increase. As unemployment increases, trade protection should increase.

International Economic Factors

To test international economic theories I examine changes in import volume and import penetration.[25] Increases in import volume should trigger trade protection, especially under the anti-dumping laws. Additionally, one would predict that sectors with high levels of import penetration would receive more trade protection than sectors or industries with low levels of import penetration. High import penetration means that an industry is forced to compete directly with imports. This has the potential to cause material injury to the domestic competing industry, triggering trade protection. Moreover, if international economic theories are correct, there should be a rough proportionality between imports and trade protection. As imports increase, the probability of an unfair trade case increases. As such, one would expect direct, positive relationships between trade protection and import levels.

International Political Factors

As a first cut at international political factors, I test whether country of origin matters in explaining incidence and intensity of trade protection. I compare the incidences of protection across country composites, using a series of dummy variables. The country composites are aggregates falling into broad categories: South America, Big Emerging Markets, Europe (EU), Non-Market Economies, Asian Newly Industrialized Countries (NICs), and Other Asian countries. See Table 3-1 for a list of countries in the

[25] I use change in import volume to capture the surges of imports that often trigger anti-dumping cases. I tested the utility of using change in import penetration, however, this variable was not statistically significant in the models, and could not be included in addition to change in import volume because of a high degree of correlation (r= 0.87***). International political economy studies use both measures, so

Table 3-1: Comparative Groups
(U.S. Department of Commerce constructed aggregates)

Asian Newly Industrialized Countries (NICs) (4 countries)
Hong Kong, Singapore, South Korea, Taiwan

Big Emerging Markets (BEMs) (15 countries)
(developing countries)
Argentina, Brazil, Brunei, Hong Kong, India, Indonesia, Malaysia, Mexico, Philippines, Singapore, South Korea, South Africa, Taiwan, Thailand, Turkey

Europe (15 countries)
Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Italy, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, UK

Non-Market Economies (25 countries)[26]
(former Communist countries)
Albania, Armenia, Azerbaijan, Belarus, Bulgaria, China, Czech Republic, East Germany, Estonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Poland, Romania, Russia, Slovak Republic, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Vietnam

Other Asian Countries (18 countries)
Afghanistan, Bangladesh, Bhutan, Brunei, Burma, Cambodia, India, Indonesia, Laos, Macao, Malaysia, Maldive Islands, Mongolia, Nepal, Pakistan, Philippines, Sri Lanka, Thailand

South America (10)
Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, Uruguay, Venezuela

Source: United States International Trade Administration. *United States Foreign Trade Highlights*. At http: www.ita.doc.gov/industry/otea/usfth/method.html.

there is adequate theoretical justification for the use of either. In keeping with previous studies analyzing patterns of anti-dumping trade protection, I have chosen to use change in import volume.

[26] Cases against the USSR prior to 1991 are counted as one case, and after 1991 the cases are counted against the individual republics. This is in keeping with the classifications and accounting system used by the U.S. Department of Commerce.

composites. Although this is a crude measure of international political factors, it is only a first attempt to test whether country of origin matters. If country of origin does matter, it provides evidence that one should further investigate what specifically about the country affects patterns of trade protection.

If beliefs matter, we should expect to see differences in patterns of trade protection against certain countries, controlling for other factors. If beliefs matter, country of origin will be statistically significant. Specifically, if beliefs about NMEs are important factors, one should see that country of origin is a statistically significant predictor of incidence and intensity of trade protection. If beliefs do not matter, then the NME country of origin for imports will not be a significant factor in explaining patterns of trade protection.

Data and Dependent Variables

I designed this data set to test the ability of traditional political economy hypotheses to explain the incidence and intensity of trade protection at the industry level. The data set covers the universe of anti-dumping cases initiated by the U.S. Department of Commerce between 1985-1999. The dependent variable is trade protection, operationalized as the outcome of an anti-dumping case: whether there was trade protection awarded and if so how much. Each case in the model is one anti-dumping case initiated against one country for a single commodity in any given year. The independent variables and their hypothesized relationships to the dependent variable are summarized in Table 3-2.

Table 3-2: Summary of Independent Variables

Independent Variables	Relationship to Incidence and Intensity of Trade Protection
Size of industry (Employment)	+
Value-added by Industry Per Employee	-
Profitability	-
Import Penetration	+
Change in Imports	+
Change in Real GDP	-
Change in Unemployment	+

During an anti-dumping investigation, the Department of Commerce examines information from two fiscal quarters prior to the date of the filing of an investigation (approximately 6-9 months). For example, a case filed in mid-1999, would use 1998-1999 economic information. Therefore, I have used one year lagged variables where appropriate. All data conform to the SIC 4-digit level of analysis or its equivalent, and have been converted from the 10-digit Harmonized Tariff Schedule Commodity Codes reported in the anti-dumping cases. From 1985-1987, the Department of Commerce used the Tariff System of the United States (TSUSA) to designate imports, then 1987-1997 the Harmonized Tariff Schedule Commodity Codes (HS), and finally 1997-present the North American Industry Classification Standard (NAICS). Each of these has been converted into a standard code in order to compile comparable industry level data across the 15 year time period. (See Appendix I for an explanation of each variable).

Analysis 1: Which factors explain industry incidence of trade protection?

The first set of models tests which factors affect when an industry will receive trade protection. The logit model examines all anti-dumping cases (N=608) initiated by the United States during the three periods: Models 1 and 2--1985-1999; Model 3--1985-

1990; and Model 4--1990-1999.[27] The dependent variable is trade protection, whether the domestic industry initiating the anti-dumping case did or did not (1/0) receive trade protection. Trade protection constitutes a final affirmative anti-dumping duty, or the negotiation of a suspension agreement which either limits the foreign industry's allowable export quantities or sets a lowest allowable price. In either case, the domestic industry wins trade protection. Table 3-3 provides a sample of cases, countries and years, to illustrate the diversity of both products and countries involved in anti-dumping investigations.

If industry level indicators or international economic indicators matter most in explaining patterns of trade protection, then one would not predict substantially different results in the three time periods analyzed. If international political considerations matter, one would predict that the time period would affect the structure of the model. Model 3 looks at a period during the Cold War, and Model 4 looks at the period after the Cold War. This Cold War dynamic should affect international political considerations, should they prove to be important variables. If international political variables do not matter, there should be little difference between the pre- and post-Cold War periods. This international political dynamic would be captured by comparing the three models.

With respect to non-market economies, if trade protection against NMEs is a function of the composition of their export commodities, then industry level data should account for most of the trade protection during all the time periods. If there was a political component, one would expect it to be less strong in the period after the Cold

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[27] This logistic regression model used deviation coding for the categorical variables, in keeping with (Menard 1995). Outliers were not removed due to insufficient theoretical justification.

Table 3-3: Sample of U.S. Anti-dumping Cases (1985-1999)

Country	Product	Year	Country	Product	Year
Saudi Arab	Oil	1999	Italy	Instrument pads	1992
Russia	Fertilizer	1999	Hungary	Ball bearings	1991
China	Apple juice	1999	India	Ibuprofen	1991
Indonesia	Polyester resin	1999	Japan	Microwaves	1991
Japan	Masks	1999	Venezuela	Cement	1991
India	steel plate	1999	Bangladesh	Shop towels	1991
Kazakhstan	Uranium	1999	Yugoslavia	Cherry juice	1991
Canada	Cattle	1998	Austria	Paper	1990
Taiwan	Semiconductors	1998	Singapore	Word processors	1990
India	Rubber tape	1998	Argentina	Steel wire rod	1990
Indonesia	Rubber thread	1998	Taiwan	Lug nuts	1990
Italy	Steel plate	1998	China	Sparklers	1990
Spain	Steel wire	1998	Brazil	Digital counters	1990
Denmark	Cookies	1998	Israel	Cephalexin	1989
Chile	Mushrooms	1998	Mexico	Steel pails	1989
Germany	Stainless steel	1997	Korea	12 v batteries	1989
Trinidad	Steel wire rope	1997	Sweden	Aluminum sulfate	1989
Chile	Salmon	1997	Taiwan	Telephone sys	1988
Taiwan	RA memory	1997	Brazil	Shock absorb	1988
Korea	Nails	1996	Australia	Bauxite	1988
China	Crawfish	1996	Malaysia	Thermostats	1988
Austria	Rayon yarn	1996	UK	Industrial belts	1988
Turkey	Rebar	1996	Japan	Forklift trucks	1987
China	Brake drums	1996	Netherlands	Brass sheet	1987
Indonesia	Dinnerware	1996	Canada	Picture tubes	1986
UK	Foam	1995	Turkey	Aspirin	1986
Germany	Printing press	1995	Germany	Crankshafts	1986
Italy	Pasta	1995	Iran	Pistachios	1986
China	Bicycles	1995	Brazil	Orange juice	1986
Russia	Magnesium	1994	Belgium	Mirrors	1986
Taiwan	Wheel inserts	1994	E Germany	Urea	1986
Argentina	Tubular goods	1994	Mexico	cooking ware	1985

War. If NME political and economic institutions account for the patterns of trade protection, then NME country of origin should matter less in explaining patterns of trade protection after the Cold War (1990-1999). Since the end of the Cold War, NMEs have substantially changed their domestic institutional structures. If the West protected itself against NME imports because of the unfair trade advantages conferred by Communist institutions, there should be less need for this type of trade protection in the post-Cold War period. However, if beliefs do affect current trade policy, country of origin (NME) should still be significant in the post-Cold War period, reflecting the lingering effects of beliefs. In sum, NME country of origin should matter more during the Cold War and be of lesser importance in the post-Cold War period if trade protection is a function of NME institutional structures.

Models 1 and 2: 1985-1999

In Model 1, profitability, value-added per employee and import penetration were all statistically significant (see Table 3-4). Less profitable industries were more likely to win trade protection, as predicted. But there was a positive relationship between value-added and trade protection, and a negative relationship between import penetration and trade protection. Low import penetration industries were more likely to receive trade protection, contrary to the standard trade literature. This suggests that industries with already low import penetration levels are the ones receiving protection, not industries facing high levels of import penetration. Value-added was positively related to trade protection, contrary to the hypothesized relationship. This suggests that low value-added industries, in traditional blue collar sectors, are not necessarily more likely to receive

Table 3-4: Which factors explain industry level incidence of trade protection?

Analysis 1-Parameter Values for Logit Model

Dependent Variable: Trade Protection	Model 1 1985-1999	Model 2 1985-1999	Model 3 1985-1990	Model 4 1990-1999
Size of industry (employment)	-0.14 (0.12)	-0.16 (0.12)	-0.15 (0.16)	-0.09 (0.17)
Profitability of Industry	-0.69** (0.27)	-0.70** (0.27)	-0.47 (0.40)	-1.33*** (0.40)
Value added per employee (lagged)	0.48** (0.19)	0.50** (0.19)	0.32 (0.31)	0.80*** (0.26)
Import Penetration (lagged)	-0.18** (.08)	-0.18** (.08)	-0.13 (0.12)	-0.22** (0.10)
Import Change	-0.08 (0.17)	-0.1 (0.17)	-0.02 (0.65)	-0.07 (0.18)
Change in Real GDP	8.90* (4.41)	---	-10.55 (9.26)	19.23** (6.79)
Change in Unemployment Rate	---	-1.71** (0.71)	---	---
NME	1.91*** (0.36)	1.90*** (0.36)	1.72** (0.62)	2.50*** (0.51)
South America	0.24 (0.36)	0.26 (0.36)	-0.47 (0.58)	0.81* (0.47)
Europe	0.57* (0.33)	0.58* (0.33)	-0.33 (0.47)	1.18** (0.49)
Japan	1.80*** (0.39)	1.79*** (0.39)	1.12** (0.54)	2.39*** (0.57)
Asian NICs	0.42 (0.37)	0.41 (0.37)	0.14 (0.64)	0.64 (0.57)
Big Emerging Markets	0.91** (0.35)	0.91** (0.35)	0.66 (0.58)	1.19** (0.49)
Other Asian Countries	0.76* (0.46)	0.76* (0.46)	0.02 (0.85)	1.06* (0.55)
Constant	-37.74* (20.38)	11.53*** (3.71)	51.53 (43.10)	-85.09** (31.54)
Pseudo R2 (Cox & Snell)	0.12	0.12	0.11	0.18
% Correctly Classified	64.60%	64.80%	64.80%	66.20%
Sample Size	608	608	247	402

1. Natural logs taken for: value added, employ, import change, profit, and import penetration.
2. Coefficients are unstandardized logistic regression coefficients: standard errors in parentheses.
3. *p<.05; **p<.01; and ***p<.001.

trade protection. In fact, the positive relationship suggests that high value-added industries, like semi-conductors, supercomputers, cars, and machinery are the industries winning trade protection.

Interestingly, import change was not statistically significant, nor was the size of the industry. This suggests that while import change is often cited as the most important reason to give trade protection to an industry, this is not the actual reason an industry does or does not receive trade protection. Employment was also not statistically significant, suggesting that political "adding machine" models in which the political power of an industry is directly translated into the voting preferences of politicians might not be true in the case of this form of trade protection. These findings run contrary to the literature explaining why the steel or chemicals industries often receive trade protection.

Change in real GDP and change in unemployment rate are highly correlated (r=-.93***). Using both in the model causes a collinearity problem, which affects the significance of the other variables. Therefore Model 1 tests the effects of change in real GDP and Model 2 tests the effects of change in unemployment. Both variables are significant in each model, but not in the hypothesized directions. As GDP increases, trade protection is more likely. As unemployment increases, trade protection is less likely. These results are not consistent with the economic literature explaining the incidence of trade protection.

What is most interesting are the findings related to the international political variables. The two variables significant at the highest confidence interval (99.99%) were NME and Japan. An industry in Japan or a NME is more likely to face protection in the

form of anti-dumping cases than industries in other countries. Big Emerging Markets and Other Asian countries were also statistically significant, all in a positive direction.

Model 3 (1985-1990) and 4 (1990-1999)

Models 3 and 4 suggest an even stronger explanatory role for international political considerations. During the period 1985-1990, the only variables that were significant predictors of trade protection, were Japan and NMEs. None of the traditional economic indicators were significant during this time period. This suggests that even allegedly non-political trade remedies like anti-dumping laws were politically charged trade instruments during the Cold War.

Between 1990-1999, other variables become significant. Profitability, value-added, real GDP, and import penetration are once again significant variables, but only profitability is in the expected direction. A host of international political variables are also significant. During this time period after the end of the Cold War, there is a proliferation of political variables helping to explain patterns of trade protection. South America, NMEs, Japan, Europe, Big Emerging Markets, and Other Asian countries are all positively related to trade protection.

There is a big difference in the statistical significance of the variables in Model 3 and Model 4, the pre- and post-Cold War subsets. This suggests that the structure of the international system and international political considerations have an impact on the administration of trade laws. Since logit does not reveal the magnitude of the effect of the variables, I turn to Analysis 2, using a series of ordinary least squares regressions to determine how much each of these factors affects levels of protection.

Analysis 2: Which factors affect the magnitude of the trade protection awarded?

In this series of models, I test which factors affect the size of the trade protection an industry is awarded. The dependent variable is level of protection, operationalized in terms of the dumping margin (continuous variable). This analysis only looks at cases in which an industry is granted protection, either in the form of a dumping margin or a suspension agreement. In the case of suspension agreements, the preliminary dumping margins are used to assess the level of protection. The same independent variables are tested.

Model 1: Domestic Economic, Domestic Political, and International Economic Variables

In Model 1, the international political variables are excluded in order to determine how much variation in the dependent variable the variables based on traditional political economy hypotheses can explain. All the variables are statistically significant but not in the predicted directions. Out of six variables, change in real GDP and import change are the only two moving in the expected direction. Declining GDP and import surges do lead to higher levels of trade protection. However real GDP has the smallest coefficient of any of the variables, is significant at the lowest confidence interval, and therefore has the smallest explanatory effect of any of the variables in this model (see Table 3-5).

Employment, import penetration, value-added, and profitability all vary in the opposite direction of that hypothesized. Contrary to predictions, smaller industries get higher levels of trade protection than larger industries. I hypothesized that less profitable industries would receive more trade protection. This is consistent with the intention of anti-dumping laws to assist industries unable to compete temporarily with foreign

Table 3-5: Which factors affect the magnitude of the trade protection awarded?

Analysis 2- OLS Regression Model

Dependent Variable: Amount of Trade Protection Received

Independent Variables	Model 1	Model 2	Model 3	Model 4
Size of industry (employment)	-0.26** (0.09) *-0.18*	---	-0.16* (0.08) *-0.11*	5.85E-03 (0.10) *0.004*
Value added by Industry Per employee (lagged)	0.56*** (0.15) *0.21*	---	0.46*** (0.13) *0.17*	0.51*** (0.16) *0.19*
Industry Profitability	0.78*** (0.20) *0.23*	---	0.57** (0.19) *0.17*	0.27 (0.24) *0.08*
Import Penetration (lagged)	-1.28*** (0.19) *-0.65*	---	-0.97*** (0.18) *-0.49*	0.09* (0.05) *0.11*
Import Change	1.46*** (0.23) *0.62*	---	1.07*** (0.22) *0.45*	0.02 (0.11) *0.01*
Change in Real GDP	-7.87* (3.70) *-0.12*	---	-8.36** (3.39) *-0.13*	-10.70** (4.05) *-0.16*
Non-Market Economies	---	1.69*** (0.26) *0.56*	1.11*** (0.27) *0.37*	1.30*** (0.36) *0.5*
South America	---	0.28 (0.26) *0.07*	0.17 (0.26) *0.04*	0.31 (0.29) *0.08*
Europe	---	0.64** (0.27) *0.20*	0.12 (0.28) *0.04*	0.02 (0.36) *0.007*
Japan	---	1.36*** (0.28) *0.39*	0.87*** (0.28) *0.25*	0.87** (0.37) *0.26*
Asian NICs	---	-0.65** (0.26) *-0.19*	-0.67** (0.26) *-0.2*	-0.90*** (0.28) *-0.28*
Big Emerging Markets	---	0.56* (0.26) *0.22*	0.33 (0.26) *0.13*	0.16 (0.32) *0.07*
Other Asian Countries	---	-0.15 (0.30) *-0.03*	-0.18 (0.30) *-0.04*	0.15 (0.30) *0.04*
Constant	44.85** (17.00)	2.65*** (0.23)	45.25** (15.70)	54.38** (18.97)
Adjusted R2	0.22	0.25	0.37	0.41
Sample Size	281	321	280	203
F Value	14.26***	16.39***	13.42***	11.62***
Durbin-Watson	1.79	1.58	1.80	1.85

1. Coefficients are unstandardized linear regression coefficients: standard errors in parentheses. Betas in italics.
2. *p<.05; **p<.01; ***p<.001, t>2 and two tailed test.

industries due to unfair pricing practices. Instead, the model reveals a positive relationship, suggesting more profitable industries get higher levels of trade protection. Industries with low levels of import penetration get higher levels of trade protection. This suggests that firms already receiving import protection are the recipients of the most new trade protection. The positive relationship between valued added and level of protection suggests that higher value-added industries get higher levels of protection. The theories predicted that low value-added industries, especially in traditionally sensitive sectors like agriculture, textiles, and steel, would receive higher margins of trade protection. These findings are contrary to both political and economic predictions regarding value-added as an explanatory variable.

Overall this model explains 22% of the variation in the dependent variable. The two variables with the largest coefficients are import penetration and import change. As imports increase, trade protection increases. But industries with already low levels of import penetration get the highest levels of trade protection. In sum, traditional domestic economic, domestic political, and international economic variables are not highly effective in explaining levels of trade protection. The variables do not behave according to predictions, and of those that do, only one is a good predictor of level of protection.

Model 2: International Political Variables

In Model 2, I tested the explanatory power of the international political variables. By only knowing the origin of the country of export, this model was able to explain a bit more variation in the dependent variable than all the variables in Model 1. Knowing country of origin can account for 25% of the variation in the dependent variable. The

country designation with the largest coefficient was NME, followed by Japan. This suggests that imports from Japan or from non-market economies are more likely to get higher levels of trade protection than imports from other country areas, regardless of year or sector. Europe also has a positive relationship with trade protection, however the non-market economy effect is almost 200% greater than the Europe effect. Interestingly, there is a negative relationship between being an Asian NIC and levels of trade protection in this model. Imports from Asian NICs are less likely to have higher levels of trade protection, suggesting they are protected from high levels of trade protection even though they are exporting commodities similar to NMEs and Japan. This is not inconsistent with the logit findings. It suggests that once Asian NICs are found guilty of dumping, they are less likely to face stiff penalties than other country groups.

There is substantial overlap between the export compositions of Japan and the Asian NICs, and non-market economies and big emerging markets. This is interesting because while they are often cumulated on anti-dumping cases together, they exhibit very different patterns of trade protection. Table 3-6 shows the substantial commodity overlap between these country groups on U.S. anti-dumping cases. These tables also demonstrate that NMEs and Japan are almost always the recipients of the highest dumping margins. Table 3-6 displays different countries involved in the same anti-dumping cases, against the same commodities, in the same time period, with different patterns of trade protection. NMEs are almost always disadvantaged. Together this suggests that country of origin is important in determining the magnitude of trade protection an industry is awarded. Commodity composition alone cannot account for the patterns evidenced.

Table 3-6: Comparison of Different Countries in Same U.S. Cases

Japan and Asian NICs				Non-Market Economies and Big Emerging Markets			
Product/Case	**Year**	**Country**	**Dumping Margin**	**Product/Case**	**Year**	**Country**	**Dumping Margin**
Cold rolled steel	1999	Japan	39.28%				
		Taiwan	14.97%	Mushrooms	1998	China	198.63%
						India	11.30%
Steel beams	1999	Japan	31.98%			Indonesia	11.26%
		Korea	37.25%				
				Nails	1996	China	118.41%
Steel sheet	1998	Japan	40.18%			Taiwan	2.98%
		Korea	12.12%			Korea	0.00%
Steel wire	1998	Japan	15.20%	Steel plate	1996	Russia	185.00%
		Korea	0.00%			Ukraine	237.91%
		Taiwan	0.00%			South Africa	0.00%
Stainless steel	1997	Japan	25.26%	Dinnerware	1996	China	7.06%
		Korea	5.19%			Taiwan	3.25%
		Taiwan	8.29%				
				Silicomanganese	1993	China	150.00%
Alcohol	1995	Japan	77.49%			Ukraine	163.00%
		Taiwan	19.21%			Brazil	17.60%
		Korea	0.00%				
				Pencils	1993	China	53.65%
Tubular goods	1994	Japan	44.20%			Thailand	0.00%
		Korea	12.17%				
				Ferrosilicon	1992	Kazakhstan	104.18%
Flat steel products	1992	Japan	40.19%			Russia	104.18%
		Taiwan	0.00%			Ukraine	104.18%
		Korea	0.00%			Argentina	0.00%
						Venezuela	0.00%

Source: *U.S. Federal Register*, various years.

Model 3: All variables (1985-1999)

In this model all the variables are included across the 15 year time period. This model explains more variation in the dependent variable than the two models separately, roughly 37% of the variation in level of trade protection. All of the traditional political economy variables from Model 1 are significant, but their signs remain problematic. Again, only GDP and import change are significant in the expected directions. Import change and import penetration have large coefficients, and are significant at the 99.99% confidence interval. This suggests an important role for both variables in explaining amount of trade protection awarded.

Once again, non-market economies, Japan, and Asian NICs are statistically significant variables. Imports from Japan and from NMEs are highly penalized and imports from Asian NICs are favored. What is most striking about the level of effect of the variables, is that the NME variable has a large coefficient, only surpassed in magnitude and expected direction by import change.

Model 4: All variables (1990-1999)

This model tests whether the end of the Cold War has some effect on the use of anti-dumping laws. One would predict changes to the international political variables since the end of the Cold War. Specifically, one expects NME status to be less significant, given the extensive transitions made by these countries in this time period and their attempts to join the international political economy. If NMEs are distrusted because they have different institutional structures, then in the ten years since the beginning of

their economic transitions, one would expect a lessening of distrust fueled trade protection. The results of the model correspond poorly with these predictions.

Of the domestic and international economic variables, only value-added, import penetration, and change in real GDP are significant. The profitability of an industry drops out as a statistically significant variable, and import change is not statistically significant. Moreover, the non-market economy variable dominates the explanation. NME is the variable with the largest coefficient. It is significant at the highest confidence level. The NME coefficient is 163% larger than the most explanatory political economy variable (value-added), and twice as large as the Japan variable. Instead of being less important, non-market economy status is even more important in predicting levels of protection. This runs contrary to predicted U.S. behavior toward these transitional economies.

This model is able to explain the most variation in levels of trade protection, accounting for 41% of the variation in the dependent variable. This suggests that not only are non-market economies still burdened by trade protection, but they remain the best predictor of overall level of protection. This also suggests that formal institutions alone are unable to explain the discriminatory treatment of NME imports. The formal institutions in both NMEs and in the United States have changed during this time period, yet NME status is more important than ever in predicting high levels of protection.

Analysis 3: Can traditional political economy theories explain patterns of trade protection against certain country groupings but not others?

Are traditional political economy theories more useful in explaining patterns of trade protection against some countries rather than others? Are there some countries for which international political considerations dominant the domestic political, domestic economic, and international economic factors? In this analysis I separate the anti-dumping decisions by country, and test the ability of the political and economic hypotheses to explain patterns of trade protection against each country group. I segment the data into seven country categories and test the hypotheses using a logit model. The dependent variable is incidence of trade protection, whether there is an affirmative anti-dumping determination or suspension agreement (dichtomous). (See Table 3-7).

The results indicate that the political economy variables work better at explaining trade protection against certain countries than other. The logit models are robust for Big Emerging Markets, Asian NICs, Japan, Other Asian Countries, and South American countries. The traditional political economy variables are able to explain between 58-73% of the variation in the dependent variable, namely if an industry gets trade protection, in cases involving these countries. The two country groups for which the model is not robust, are NMEs and Europe. Traditional political economy variables cannot explain when an industry gets trade protection against imports from NMEs or Europe.

It is also interesting that not all variables are significant across the countries. For example, in trade cases involving BEMs, South America, or Asia, declining industry

Table 3-7: Which factors explain incidence of trade protection against certain countries?

Parameter Values for Logit Model of Anti-dumping Decisions

Dependent Variable: Anti-dumping Determinations

Independent Variables	NME	BEM	NICs	Japan	Europe	Oasian	SAmerica
Size of industry (employment)	-0.66**	0.19	0.02	-0.42	0.33	2.06*	0.01
	(0.32)	(0.20)	(0.28)	(0.38)	(0.34)	(1.60)	(0.35)
Value added by Industry (per employee)	0.61*	0.83***	0.61	0.42	0.20	0.47	0.89*
	(0.48)	(0.31)	(0.45)	(0.69)	(0.43)	(1.16)	(0.72)
Industry Profitability	0.69	-2.26***	-1.14*	0.38	-0.23	-10.73**	-3.29***
	(0.87)	(0.60)	(0.78)	(0.66)	(0.50)	(5.31)	(1.29)
Import Penetration (lagged)	-0.09	-0.13	-0.08	-0.20	-0.13	-1.46**	-0.53*
	(0.22)	(0.13)	(0.18)	(0.21)	(0.19)	(0.73)	(0.35)
Import Change	-0.14	0.60	1.09**	0.34	0.28	-1.69	0.20
	(0.25)	(0.48)	(0.66)	(0.61)	(0.83)	(2.22)	(1.20)
Change in Real GDP	7.37	16.13**	5.76	43.54***	-12.06*	10.54	3.71
	(12.97)	(7.57)	(10.87)	(17.80)	(8.79)	(31.53)	(13.35)
Constant	-24.70	-77.51***	-26.81	-196.15***	52.00*	-84.36	-20.69
	(59.61)	(35.27)	(51.00)	(81.68)	(40.32)	(137.57)	(61.66)
Pseudo R2	0.07	0.14	0.10	0.12	0.03	0.44	0.16
Sample Size	98	213	97	71	149	37	64
Chi-Squared	7.36	32.36***	9.94*	8.99*	4.83	21.26***	11.36**
	p=0.15				p=0.28		
Percentage Correctly Classified	68.40%	68.50%	61.90%	73.20%	59.70%	86.50%	57.80%

1. Note: natural logs taken for: margins, value added, employment, import change, import penetration, and profitability.
2. Coefficients are unstandardized logistic regression coefficients; standard errors in parentheses.
3. *p<.10; **p<.05; ***p<.01, t>2 and two tailed test.

profitability is a good indicator for trade protection. This is not the case with Japan. The only variable significant in the Japan model is change in real GDP, and not in the expected direction. Equally interesting, import changes are good predictors of trade protection in cases involving the Asian NICs, but not for any of the other country groups.

These findings are particularly notable when one considers that there is substantial overlap in anti-dumping cases between the country groups. Japan and NMEs do not have unique export compositions which cause high levels of trade protection. Table 3-6 demonstrated the overlap on a few U.S. anti-dumping cases between Japan and the Asian NICs, and between non-market economies and BEMs. There are many dumping cases involving the same product, the same domestic interest groups, the same international economic environment, the same domestic economic environment, but different countries. Holding these other factors constant, there are definite patterns in the way different countries are treated on the same cases. The results from the three statistical analyses bear this out for the case of the United States.

While I am not attempting to explain patterns of trade protection against all countries in the international system, I want to highlight how interesting these findings are for future research. Certain political economy variables are more robust in explaining patterns of trade protection against some countries and not others. Discerning what additional international political considerations are at play for each country group, would help to further our understanding of patterns of trade protection.

In sum, Analysis 3 has shown that traditional political economy variables are good predictors of trade protection against most country groupings, except non-market

economies. Other factors need to be examined to explain trade protection against NMEs. In the following chapters, I will argue that Cold War beliefs are one of those factors.

Conclusion

The only variables that were significant in all the models were NME and Japan. Whether imports originated in an NME or Japan were the most robust indicators of both incidence and intensity of trade protection. This suggests that political considerations are important in determining patterns of trade protection. The slightly different results between Analysis 1 and Analysis 2 for the country groups shows that there are different factors at working explaining incidence and magnitude of trade protection. However, NME is a consistently important variable in all models in explaining both incidence and intensity of trade protection.

Breaking the cases down by country, the traditional political economy hypotheses have done a good job explaining both when and how much trade protection an industry will receive if the imports originate in any country but a NME or Europe. Trade protection against NMEs cannot easily be explained by looking to domestic political factors, domestic economic factors, or international economic factors. Moreover, the greater effect of the NME variable in the post-Cold War period suggests that formal NME institutions are not the sole cause of the trade protection. NMEs are reforming, U.S. laws are changing, but the patterns of trade protection are not. In fact, they appear to be getting worse.

This chapter has tested alternative hypotheses 1-7 outlined in chapter 2. It has shown that domestic economic, domestic political, and international economic

hypotheses are not sufficient to explain patterns of trade protection against non-market economies. Trade protection against NMEs cannot easily be explained by looking at the nature of their exports, or the political saliency or economic profitability of domestic competing firms. Macroeconomic factors and export volumes also fall short in accounting for trade protection against NME exports. However, the analyses have demonstrated the utility of these hypotheses in explaining patterns of trade protection against other countries. This makes the treatment of NMEs that much more puzzling. What *does* explain trade protection if the traditional political economy hypotheses have limited explanatory capacity in cases involving Communist countries?

This chapter has **not** proven that traditional political economy variables do not matter in explaining patterns of trade protection. Macroeconomic factors are generally important factors in predicting how much protection a firm will receive, although less helpful in predicting when a firm will receive protection. During economic downturns firms get more protection than during economic booms. Firms with low profitability tend to get more protection. Contrary to predictions, firms with higher value-added levels get both more and higher levels of trade protection. All of these factors play a role, but seem to get minimized by a NME effect. The addition of the NME variable to the equations tends to minimize or eliminate the explanatory effects of these variables.

This suggests that these domestic economic variables might be important complements to a belief based hypothesis. Looking at domestic economic variables helps to explain wide variation in the timing and number of anti-dumping cases initiated in general. It still does not explain why domestic firms might be motivated to bring more cases against NMEs than other country groups. As I said in the previous chapter, trade

policy combines both interests and ideas. Domestic economic variables provide some of the explanation in getting at the interests based portion of the explanation. However, they are unable to tell the whole story.

Evidence from this chapter suggests that knowing the origin of imports is a very important predictor of the probability of getting trade protection and the level of trade protection. However, this analysis has largely treated country of origin as a residual. What about the country of origin affects the implementation of trade laws? What about non-market economies affects anti-dumping use? This chapter has highlighted the difference in NME treatment under the trade laws, but has not demonstrated that beliefs cause trade discrimination. In the following chapters I will marry qualitative evidence with the quantitative results of this chapter. Only qualitative evidence, such as interviews, case studies, and process tracing of legal precedent, can demonstrate the causal role of beliefs in the implementation of trade policy.

Chapter 4: The Nuts and Bolts of Anti-dumping Laws: Actors and Institutions in the United States and the European Union

Introduction

In this chapter I review the letter and spirit of anti-dumping laws, and their administration. I provide a definition of dumping according to GATT, and discuss how the United States and European Union have interpreted this definition. I examine the agencies tasked with administering these trade laws in the United States and the European Union. I compare how a typical anti-dumping case is administered against market economies with the novel methods used in cases involving non-market economies. Finally, I describe the special "surrogate country method" developed to determine what constitutes "normal value" in trade with non-market economies. I will explore the changing interpretations of these laws by the United States and European Union in more detail in the cases study chapters.

Anti-dumping Laws: Letter and Spirit of this Unfair Trade Remedy

Anti-dumping laws have been around for a long time. Canada instituted the first set of anti-dumping regulations in 1904. By 1921 the United States, France, Great Britain and Australia had similar anti-dumping systems in place (Tharakan 1999, 179). "For almost one hundred years international trade policy rules have recognized that 'dumping' is a practice that 'is to be condemned,' and have allowed an importing country to take certain counter measures, at least when the dumped goods cause material injury to competing industries in the importing country" (Jackson 1997, 251).

The letter and spirit of GATT anti-dumping regulations resulted from international consensus about the primary intent and use of anti-dumping laws. These laws specify the calculation of "less than fair value," transforming it into a quasi-legal procedure, with strict rules and guidelines informing economic calculations. According to Article 2.1 of the World Trade Organization Anti-Dumping Agreement (Article VI, Section 1 of the GATT) the definition of dumping reads as follows:

> A product is considered as being dumped, i.e. introduced into the commerce of another country at less than its normal value, if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country (World Trade Organization 1994).[28]

The actual definition of dumping does not vary much by country. For example, dumping, as defined by EU regulations, is the "selling of a product in the Community at a price below its normal value" (European Commission 1998b, 3). This is understood to mean that if the "export price [of a product] to the Community is less than a comparable price for the like product, in the ordinary course of trade, as established for the exporting country" then the product is being dumped (Council Reg No. 384/96 1996, Article 2). The U.S. anti-dumping law defines dumping as "sales at less than fair value" that cause or threaten to cause material injury to domestic industries (U.S. Department of Commerce International Trade Administration 1991). "Sales at less than fair value most often occur when a foreign firm sells merchandise in the U.S. market at a price lower than the price it charges for a comparable product sold in its domestic market" (U.S.

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[28] Article VI, Section 1 of the General Agreement on Tariffs and Trade (GATT) corresponds to Article 2.1 of the WTO. More often one will see references to Article VI in the literature and in U.S. and EU trade documents than to the WTO document (General Agreement on Tariffs and Trade 1970).

Department of Commerce International Trade Administration 1998, chapter 6). EU and U.S. legal definitions of dumping are essentially the same. The differences occur in the manner in which each country ascertains "fair" or "normal" value. I will address the differences in their procedures and calculations of normal value in the following sections.

The motivating idea behind anti-dumping laws was to protect domestic firms from unfair, predatory competition. However the reality of anti-dumping laws and their economic and social utility (or some might say disutility) is the subject of much debate. Scholars and practitioners who favor the use of anti-dumping laws argue that there is an inherent need for safeguards to protect citizens and domestic businesses against unfair competition, namely to "level the international playing field" (Holmes and Kempton 1996, 650). Selling below normal value in order to create monopoly conditions or artificially segment the market drives up prices unnecessarily. Basing their argument on the assertion that there is no such thing as free trade, they contend that government needs to get involved in trade policy in order to correct market inefficiencies (Stewart 1991). They argue that dumping laws are necessary in order to force firms to compete fairly (Miranda 1996). Scholars in favor of anti-dumping rules contend that they favor low cost imports but are against dumped imports.

There is a substantial body of literature critiquing the economic basis for anti-dumping laws. Starting with Jacob Viner, this literature argues that anti-dumping laws promote market inefficiencies, and benefit narrow industry interests at the cost of consumer welfare (Bhagwati 1988; Boltuck and Litan 1991; Deardorff 1995; Staiger 1995; Stern 1987; Viner 1923; Wares 1977). Consumers stand to benefit from acquiring goods from low cost producers. Overall country welfare would increase if there were no

anti-dumping laws, just anti-competitive laws. They argue that selling below cost is seen as a viable business strategy in the domestic arena but somehow demonized in the international arena (Hindley 1991). Since predatory dumping is a myth, there is no need for anti-dumping laws. In support of their opinions, scholars against anti-dumping laws point to studies like the review of the economic costs of anti-dumping laws completed by the U.S. International Trade Commission. This study estimated that removing outstanding anti-dumping and countervailing duty orders in 1991 would have resulted in a net welfare gain to the U.S. economy of $1.59 billion or 0.03 percent of 1991 GDP (U.S. International Trade Commission 1995, x).

Setting aside questions about the economic efficiency of anti-dumping laws, I will examine the manner in which they are applied. Although whether we should continue to have anti-dumping laws is a very important debate, I will not engage in a normative assessment of the utility of the laws. Instead, I ask whether the application of the laws to different countries is fair, not whether the laws are good or useful.

United States: The International Trade Administration and the International Trade Commission

In 1921, the United States implemented the Anti-dumping Act based on existing Canadian anti-dumping provisions.[29] Title VII of the Tariff Act of 1930 modified the original laws, and is the current basis for U.S. anti-dumping regulations. At that time, the Treasury Department was responsible for administering anti-dumping determinations. In 1954, this responsibility was split between the Treasury and the International Trade

Commission. In 1980 this responsibility was once again changed, and the International Trade Administration was given joint responsibility with the International Trade Commission to render anti-dumping decisions. Parties unsatisfied with the final determinations of the International Trade Administration and International Trade Commission can seek redress from the Federal Courts and International Court of Appeals.

Since 1930, not only have the agencies responsible for administering the anti-dumping laws changed, but there have been significant modifications to the laws themselves. The 1979 GATT Anti-dumping Agreements were implemented into U.S. law by the Trade Agreements Act of 1979, and significant changes were made by the 1984 Act, the 1988 Act, and the 1990 Act as well (U.S. International Trade Commission 1995).[30] In this section I will outline the current procedures for implementing the anti-dumping laws, consistent with modifications to Title VII of the 1930 Act.

The two agencies currently charged with administering U.S. anti-dumping laws are the International Trade Administration (ITA) within the Department of Commerce and the International Trade Commission (ITC). Each is responsible for administering one component of the anti-dumping law. To be awarded protection in an anti-dumping case a firm must not only demonstrate that foreign imports are being dumped, but it must also demonstrate that the imported goods are the cause of, or threaten to cause, material

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[29] This brief summary is drawn from Chapter 2 of the U.S. International Trade Commission report assessing the economic welfare of anti-dumping and countervailing duty laws. (U.S. International Trade Commission 1995).

[30] The 1984 Act established a special program to monitor persistent dumping and to allow for cumulation of imports in injury determinations. The 1988 Act added provisions to curb circumvention of duty orders, modify material injury determinations, and address concerns about third country dumping. The 1990 Act

injury to the domestic competing firm. The International Trade Administration makes the dumping determination and the International Trade Commission makes the injury determination. To be awarded protection both agencies must concur. See Figure 4-1 for a schematic representation of an anti-dumping decision tree, with the actions of each party involved and a timetable for actions.

United States International Trade Commission (USITC)

The International Trade Commission determines whether the domestic industry is suffering material injury as a result of imports of dumped or subsidized products. The International Trade Commission considers all relevant economic factors, including the domestic industry's output, sales, market share, productivity, returns on investments, capacity utilization, employment, wages, growth, and profits in rendering its decisions (U.S. Department of Commerce International Trade Administration 2001). This list is suggestive not exhaustive. The anti-dumping law defines material injury as "harm that is not inconsequential, immaterial, or unimportant (Section 771 (7) (A), Tariff Act of 1930, as amended). The definition is intentionally vague making material injury easy to find in practice.

A six court panel of politically appointed commissioners hears cases and renders decisions regarding whether imports have or have not caused injury to domestic firms. The impetus for transferring injury determinations out of Treasury and to the ITC was to

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absolved Caribbean Basin Initiative Countries from cumulation requirements. See (U.S. International Trade Commission 1995) for further discussion of cumulative changes to the anti-dumping regulations.

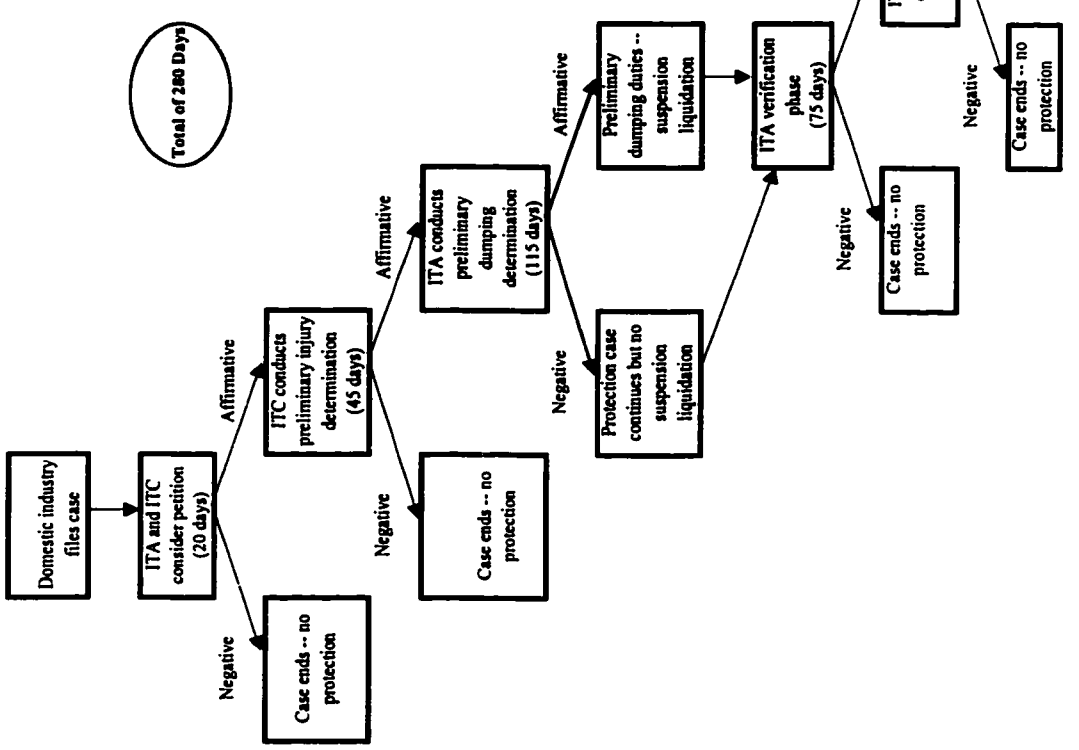

Figure 4-1: U.S. Anti-Dumping Decision Tree

Note 1: These time periods can be extended by as much as 60 to 120 days depending upon special circumstances

Note 2: Suspension liquidation requires an importer to post a bond guaranteeing that it will pay a duty in the event of an affirmative final determination.

Sources: US Department of Commerce Anti-Dumping Manual, November 1998 and 19 U.S.C. 1673a

(Baldwin 1985b, 17; Moore 1992, 451). Congress designed the ITC to be insulated from political pressure. The commissioners serve nine-year terms not subject to reappointment, and the Commission's budget is removed from Presidential control. These are just two of the ways in which ITC decision-making has been depoliticized. In his study of ITC decision-making, Baldwin concluded that the institutional structure of the ITC allows it to make decisions based on the economic guidelines of the law rather than political pressure (Baldwin 1985b, 104).

International Trade Administration (ITA)

In an anti-dumping case, the International Trade Administration determines if the product is being dumped, that is selling at a cost less than fair value. The ITA is an agency within the Department of Commerce. Analysts working on the anti-dumping cases are not political appointees. The determination of dumping is a highly formal procedure. Extensive rules delineate the time frame allowed for the investigation, parties to be considered, and factors to analyze in the case. Congress removed much of the discretion from ITA decision-making. For example, it devoted 247 lines in the Trade Agreements Act of 1979 to instructions regarding the calculation of dumping, and only 40 lines to ITC injury determination (Moore 1992, 451).

The ITA is charged with conducting a formal investigation of dumping allegations. The ITA's findings are then used by the ITC, in conjunction with direct testimony in ITC formal hearings and any additional research the ITC conducts, in rendering injury determinations. As such, the ITA is responsible for compiling and interpreting information in an anti-dumping case.

There are four main responsibilities delegated to the ITA. First, ITA analysts are in charge of accumulating and processing the foreign and domestic firm level data used in

improve the fairness of the decision-making process, and create an agency more autonomous from Congressional, Presidential, and special interest political pressure rendering dumping decisions. The ITA sends detailed questionnaires to interested parties and receives volumes of financial, organizational, and political information to be used in the case decisions. Second, analysts determine if a large enough proportion of an industry supports a petition to merit a formal investigation.[31]

Third, the ITA determines the scope of an investigation, namely what class or kind of merchandise will be grouped together in the investigation (U.S. Department of Commerce International Trade Administration 1998, chapter 1). This is an important component of a case, for a very general description of materials can bias the case in favor of petitioners, and a very narrow interpretation of the scope of the investigation can overly hinder petitioners. For example, defining steel products in general terms can make it easier for a domestic firm to show it is being injured because it increases the number of steel products that are potentially facing adverse foreign competition. A domestic firm must only show that one of the steel products under the umbrella of the case is being dumped in order to get protection for all products under the case umbrella. It may be easier to find dumping in cases in which the scope is very broad as opposed to very narrow. Fourth, analysts visit the facilities of foreign firms to verify the information supplied in the cases and to determine the veracity of financial statements.

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[31] "Section 702(c)(4)(A) of the Act requires the ITA to determine, prior to the initiation of an investigation, that a minimum percentage of the domestic industry for the like product supports an antidumping duty petition... A petition meets the minimum requirements if the domestic producers or workers who support the petition account for 1) at least 25 percent of the total production of the domestic like product; and 2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition (see *Initiation of Antidumping Duty Investigation: Beryllium Metal and High Beryllium Alloys from Kazakhstan*, (61 FR 15770 1996); and (U.S. Department of Commerce International Trade Administration 1998, chapter 1). The size of the industry support is calculated on the basis of volume or value of production.

In sum, the ITA is very involved in the day to day accumulation and processing of case-related information, and it is charged with presenting this information to the ITC. There is a certain amount of control ceded to the ITA due to its role in obtaining and processing the firm level data. I will now turn to the way in which the ITA renders its dumping determinations.

ITA Dumping Determinations

To start a dumping investigation, a petition is filed with the ITA and the ITC on behalf of a domestic industry alleging that it is being injured by foreign imports sold in the United States at less than fair value. The petition must contain information regarding: 1) the exact nature of the product being dumped, with appropriate Harmonized Tariff Schedule descriptive codes; 2) the countries the petitioners claim are dumping; 3) statistical data and supporting evidence of the volume and value of the imports under investigation; 4) statistical evidence of material injury to the domestic firm during the time of imports; and 5) a calculation of the export price or the constructed export price of the imports to justify the petition's allegations of dumping (U.S. Department of Commerce International Trade Administration 1998, Chapter 1, esp. 31-7).

Based on the information provided by petitioners, the ITC and the ITA can choose to initiate a full anti-dumping investigation. Figure 4-1 shows how the decisions rendered by the ITC and ITA proceed from each other. If the ITC does not find that a domestic firm is being injured, the investigation is terminated before dumping is even established by the ITA. Injury against domestic industries is calculated based on the cumulative effects of imports from a number of exporters. Cumulation means that the

imports from a variety of exporters from a number of countries may all be tied together under the umbrella of a single anti-dumping case. So an anti-dumping case may be a case against a single exporting firm in one country, several exporting firms in one country, or involve multiple exporting firms in multiple countries. This is why there are often several countries named as defendants in any one anti-dumping case. Accusing multiple countries of dumping improves the chances of finding the parties guilty of injury to domestic industries (Hansen and Prusa 1996; Tharakan, Greenaway and Tharakan 1998).[32]

If a preliminary determination of injury is found, the ITA then renders a preliminary dumping determination.

> Dumping occurs when a foreign producer sells a product in the United States at a price that is below that producer's sales price in the country of origin ("home market"), or at a price that is lower than the cost of production. The difference between the price (or cost) in the foreign market and the price in the U.S. market is called the dumping margin. Unless the conduct falls within the legal definition of dumping as specified in U.S. law, a foreign producer selling imports at prices below those of American products is not necessarily dumping (U.S. Department of Commerce International Trade Administration 2001).

To determine if dumping occurred, the fair market value (normal value) is compared to the export price; the difference constitutes the dumping margin. There are several ways to determine "normal value." The price for the goods in the exporting country's home market is the preferred measure of normal value. When home market sales in the exporting country do not exist, the export price to a third country is used to

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[32] For example, a single exporter in Malaysia might not be injuring the domestic competing industry enough to merit an anti-dumping case. But the cumulated effect of imports from Malaysia, China and Thailand might be causing injury to a domestic firm. By naming all these countries in the anti-dumping

determine the normal value. The constructed value method, a valuation of production costs including quantities of raw materials, labor, and energy consumed plus a 10% general expenses charge and a 8% profits margin is employed as a third best method of determining fair value. In this method, the exporting firm provides costs for its factors of production, and these are added together to arrive at a normal value. The amount by which the normal value is less than the price of the goods imported to the United States is the dumping margin. This margin is used to assess a duty to offset sales at less than fair value (U.S.C. 19 § 1677e and 19 § 1677b). If dumping can be proven and the dumped good either causes or threatens to cause material injury, duties are assessed.[33]

These methods of determining the fair value of imports from market economies have never applied to non-market economies, where domestic prices failed to reflect relative scarcities and were divorced from world prices by a system of price equalization. Instead, alternate procedures have been devised, in part reflecting traditional Western presumptions that non-market economies posed a special threat to import-competing producers and by extension to the importing country as a whole. The GATT/WTO allows for alternative methods of determining normal value when trading with non-market economies. These methods will be examined in detail in Chapter 5, and will be briefly summarized in the following sections of this chapter. Because the ITA is the agency charged with rendering these decisions, I will focus on its interpretation and implementation of the anti-dumping laws to NMEs in the U.S. case study chapter.

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case, the domestic industry improves its chances of proving it is being injured by foreign competition and therefore in need of trade protection. The European Union has the same cumulation of injury practice.

[33] Dumping margins less than 2 percent *ad valorem* are considered *de minimis* and are disregarded. If *de minimus* dumping is found, the case is terminated. See Section 733, 19 U.S.C. 1673a of Title VII of the Tariff Act of 1930.

European anti-dumping rules are consistent with the rules specified in Article VI of the GATT. This means that rules related to the "calculation of dumping, procedures for initiating and pursuing an investigation, including the establishment and treatment of the facts, the imposition of provisional measures, the imposition and collection of anti-dumping duties, the duration and review of anti-dumping measures and the public disclosure of information" are spelled out in some detail by Article VI (Council Reg No. 384/96 1996).[34] Dumping laws cannot be applied to EU members; they only apply to non-EU member states.

Dumping determinations are administered by both the European Commission and the Council of Ministers. The European Commission implements and interprets the anti-dumping laws, and the European Council of Ministers has final veto power over the imposition of trade protection. The European Court of First Instance and finally the European Court of Justice are the final arbiters of any disputes arising from the legal interpretation and implementation of the laws.

European Commission

The European Commission is the agency in the European Union charged with administering anti-dumping laws for all the countries of the EU.[35] Within the European Commission, the Directorate General in charge of anti-dumping regulations is DG Trade

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[34] Implementing legislation based on Article VI and the 1994 Uruguay Round Agreement on Implementation of the GATT Anti-dumping Code includes Regulation 3283/94, and most recently EC Regulation 384/96 (Council Reg No. 384/96 1996).

[35] See (Bael and Bellis 1990) for a good discussion of the legal delegation of authority between the Council and the Commission, and within the Commission.

(formerly DG I). For the EU, dumping is a three part determination: there must be dumping, the dumped goods must be injuring a domestic producer of a like product, and a dumping margin must be "in the Community's interest." The Commission renders all three parts of the dumping decision. Within DG Trade (DG I) the dumping and injury determinations are made by separate departments (E and C respectively). Although the Commission renders all dumping and injury findings, the decisions are made simultaneously by separate teams of analysts.

In determining if an anti-dumping case is merited the Commission is instructed to look at: "Import terms and conditions, import trends, the various aspects of the economic and commercial situation, and the measures, if any, to be taken" with respect to dumping (Council Reg No. 288/82 1982, 1). With regard to injury the Commission is instructed to look at: "the volume of imports... the prices of imports... the consequent impact on the community producers of similar or directly competitive products as indicated by trends in certain economic factors, such as production, utilization of capacity, stocks, sales,....rate of increase of the exports of the community.... And export capacity in the country of origin of export" (Council Reg No. 288/82 1982, Article 9 (1-2)). Finally, the Commission is instructed to consider if the dumping margin is in the interest of the overall Community. The Commission should weigh the costs and benefits to producers and consumers of the product in determining if duties should be levied (Inama and Vermulst 1999, 215). All three components are necessary for dumping duties to be imposed.

To begin an investigation the Commission typically receives a complaint from a segment of the Community industry with standing that is being hurt by the import into

the EU of unfairly (typically cheaply) priced imports (see Figure 4-2).[36] In some cases the Commission can initiate a case on its own. The complaint must contain preliminary evidence that the product under question is being dumped, that the volume of imports is substantial, meaning represents a market share above 1%, and that the dumped goods are injuring the domestic industry. The Commission is then compelled to initiate a preliminary anti-dumping investigation. It sends out questionnaires to interested parties, solicits comments from Community producers and the foreign exporters. It uses the economic and other data it receives to make like product determinations, normal value determinations, injury determinations, and finally calculate dumping margins (European Commission 1996; European Commission 1998b; Holmes and Kempton 1996).

As in the U.S. example, what constitutes "normal value" is one of the most difficult questions faced when analyzing if a product is being dumped. Normal value is typically based on the prices paid in the ordinary course of trade in the domestic market. The normal value of the product is then compared to the export price of the product to determine if there is dumping. Similar to the U.S., the EU will first turn to home market sales to determine normal value, then export sales to third countries, and finally a constructed value measure to determine normal value in the absence of sales in the home market (Inama and Vermulst 1999, 249). There are various procedures and rules designed to determine normal value if there are problems associated with using the

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[36] For a case to be considered by the Commission, the case must be initiated by a sizable percentage of the Community industry. A Community producer is considered to have "standing" to file a complaint if the "collective output constitutes more than 50% of the total production of the like product produced by that portion of the Community industry expressing either support for or opposition to the complaint." No case should be initiated if Community producers involved in the case account for less than 25% of total production (Council Reg No. 384/96 1996, Article 5(4)).

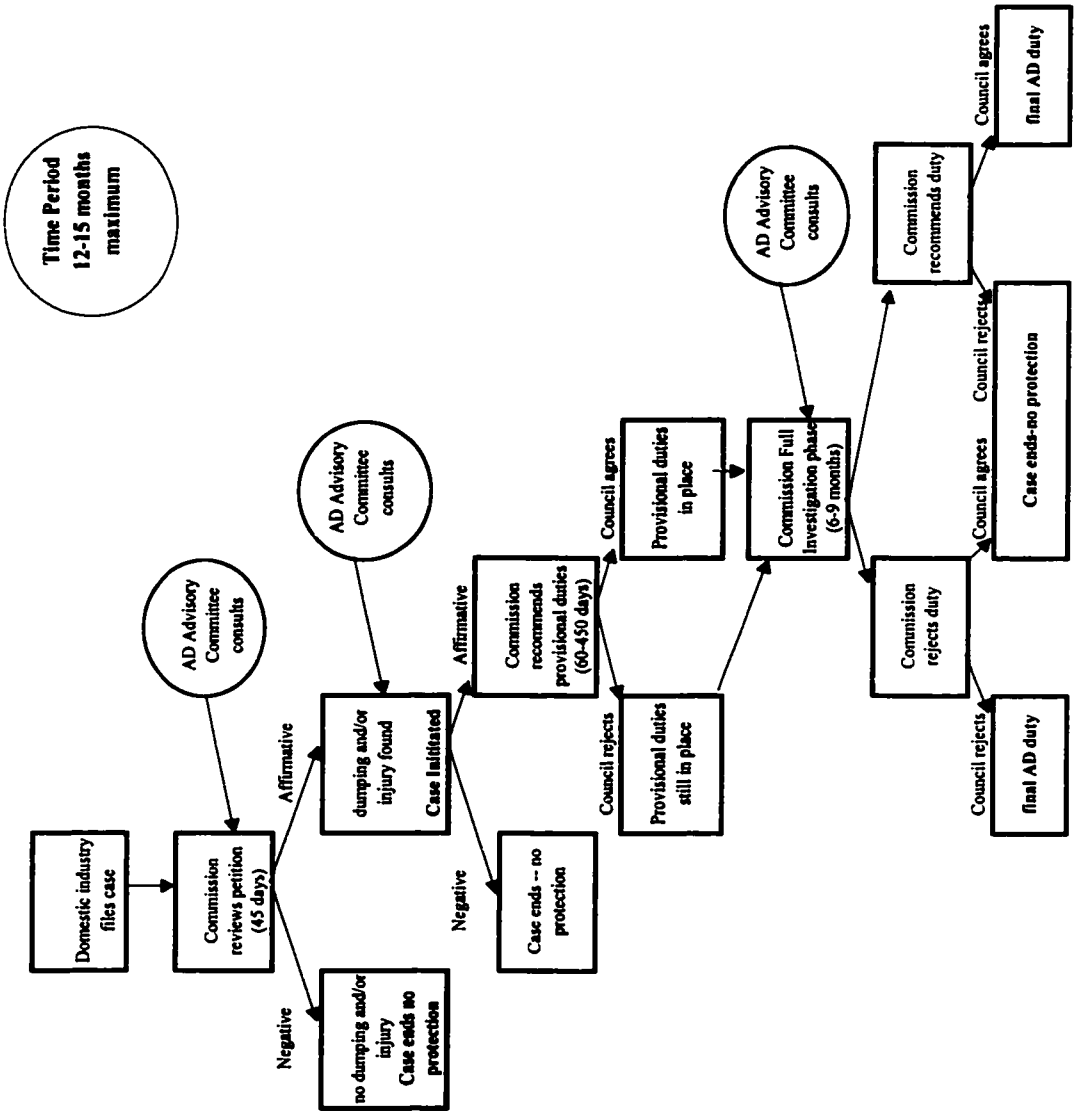

Figure 4-2: EU Anti-dumping Decision Tree

Note 1: The Council requires a simple majority to affirm or deny duties.

Note 2: The AD Advisory Committee does not have voting power, simply consultative power.

Sources: Stefano Inama and Edwin Vermulst, 1999. Customs and Trade Laws of the European Community; and Commission Documents, various

domestic prices of an exporting country. This is the problem faced by non-market economies. As such, special rules and procedures have developed to determine what constitutes the "normal value" of products from non-market economies. This will be discussed later in this chapter.

European Council of Ministers

The European Council of Ministers is comprised of 15 voting members: one representative per member state. The Council votes twice on anti-dumping cases: once on provisional anti-dumping measures and once on definitive anti-dumping measures. The Council requires a simple majority to impose or reject the duties proposed by the Commission (Inama and Vermulst 1999, 213). The provisional measure vote is not binding on the Commission, but the definitive anti-dumping vote is binding. Even if the Council rejects provisional duties, the Commission can continue with a full investigation. Although the Commission is technically in charge of all anti-dumping determinations and aspects of the investigations, the Council does have the final say in ratifying or rejecting Commission recommendations. While it is rare for the Council to vote against final Commission recommendations, there are some exceptions. The Council does not simply rubber-stamp Commission decisions.[37]

There is a competitive power dynamic between the Council and Commission involving the implementation of the anti-dumping laws. The struggle for control over EU trade policy is commonly recognized. In 1996 a proposal was tabled to make the Commission the sole negotiator of EU trade policies, in order to avoid calls for trade

protection by individual countries through the Council. As Sir Leon Brittan the EU's Chief Trade Negotiator put it, "If Europe wants to be effective we need a single negotiator and qualified majority voting. [Otherwise] a small national tail could be wagging the large European dog at every turn" (Brittan 1996). This proposal would have given the Commission sole responsibility over anti-dumping policy, bypassing Council voting procedures unless a majority of governments opposed the Commission's recommendations. However, there was strong opposition to removing the role of the Council, and therefore removing individual country influence over anti-dumping policy. Therefore, this proposal has not yet been implemented (Agence Europe 1998c; Agence Europe 1998d).

The Council flexes its influence over the Commission through the Anti-dumping Advisory Committee, which consults with the Commission on cases. The Advisory Committee consists of government appointed representatives from member states. These representatives advise firms in their respective countries about the feasibility of filing an anti-dumping case, and are closely tied with national industries (Inama and Vermulst 1999, 212). The Advisory Committee is chaired by the Commission, so there is an informal Commission presence in the intra-Committee bargaining and negotiations. The discussions involving this Advisory Committee are confidential, but personal interviews with Anti-dumping Trade Officials at the European Commission revealed that the Council uses the Advisory Committee to influence the Commission's anti-dumping decisions. In these meetings the Commission gets a sense of Council opinions, and can alter the scope of the case or terminate the case altogether if it does not look like Council

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[37] For a politically charged exception see Unbleached Cotton (COM Reg No. 773/98 1998).

approval of a final anti-dumping duty would be forthcoming (Holmes and Kempton 1996, 653-4).

One Commission trade official referred to the Commission-Council-Advisory Committee relationship as a "political game."[38] Sometimes countries will vote nay in preliminary determinations to send a signal to the Commission about their intentions. Voting nay in the preliminary determinations also signals the domestic interest groups in that country that their representatives in the Council have their interests in mind. The Commission may engage in bargaining with the countries on other issues in order to secure yes votes in the final anti-dumping determination. Sometimes the countries will vote nay, in order to bargain or horse-trade their votes with other member states or the Commission on related issues (Buckley 1998).

Council voting decisions are confidential, as are Council discussions of the cases. However, some information regarding voting patterns has emerged which suggests there are two loose blocs of countries that tend to vote *en masse* for or against protection based on their economic predisposition.[39] Southern countries tend to be more protectionist than Northern countries, and this North/South split tends to hold across countries and commodities. Table 4-1 presents some expository evidence of Council voting patterns. Cases against a variety of countries and a variety of commodities evidence similar North/South voting patterns. This suggests an overtly political, non-transparent element to anti-dumping decisions.

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[38] Interview with top ranking Trade Official at the European Commission, Brussels, Belgium, Fall 1999.

[39] For examples see (Agence Europe 1998b; Agence Europe 1999a; Agence Europe 1999b). This information was collaborated in my personal interviews with Anti-dumping Trade Officials at the European Commission, Brussels, Belgium, Fall 1999.

Table 4-1: European Council Voting Patterns on Anti-dumping Measures

Country	Product	Year	For AD Measures	Against AD Measures	Abstained from voting
Russia and China	Aluminium foil	1999	Portugal, Spain, France, Italy, Lux, Belgium, Greece, Austria, Ireland	UK, Nether, Sweden, Denmark	
Poland and Ukraine	Fertilizer	2000	Portugal, Spain, France, Italy, Lux, Belgium, Greece, Austria, Ireland	Denmark, Nether, Sweden	
China, S Korea, Taiwan, Thailand	Hairbrushes	2000	Portugal, Spain, France, Italy, Lux, Belgium	Germany, Sweden, Nether, Denmark, UK, Austria	
China	Coke	2000	Greece, Spain, Belgium, Italy	Germany, Sweden, Nether, Denmark, UK, Austria, Finland	Portugal
China	Glycine	2000	Portugal, Spain, France, Italy, Lux, Belgium	Denmark, Germany, Nether, Austria, Finland	Sweden, UK
United States, Thailand	Electrolytic capacitators	1999	Portugal, Spain, France, Belgium	UK, Germany, France, Sweden, Finland, Denmark, Ireland, Lux	Italy
Japan, Korea, Malaysia, China, Taiwan	Car CD players	1999	Italy, Nether, France, Portugal, Belgium, Greece, Austria	Sweden, UK, Spain, Finland, Germany	Denmark, Lux, Ireland
India	Stainless steel bars	1998	Belgium, Spain, France, Greece, Italy, Lux, Portugal	Germany, Denmark, Ireland, Finland, Nether, UK, Sweden	Austria
China	Unbleached cotton fabrics	1998	France, Italy, Spain, Portugal, Greece, Austria	UK, Germany, Sweden, Denmark, Ireland, Nether, Finland	Belgium, Lux
China, Japan, Korea, Malaysia, Singapore, Taiwan, Thailand	Personal photocopiers	1998	Nether, Austria, Portugal, France, Greece, Finland	Germany, UK, Denmark, Ireland, Sweden	
China, Indonesia	Shoes	1997	Italy, Portugal, Greece, France, Spain, Austria, Finland	Germany, Denmark, Sweden, UK	
Japan	Photocopiers	1995	France, Italy, Spain, Nether, Belgium, Lux, Portugal, Austria	Germany, UK, Sweden	

Note: Information on Council voting patterns is not a matter of public record. The voting patterns are confidential EU documents. Therefore this information is derived from daily press reports that leak voting patterns. This is why the voting record is not complete but simply expository.
Sources: European Information Service and Europe Daily Bulletins, Daily Reports. Various.

While member states can try and work their national interests into the Council's votes, it is also possible for the Council to try and influence the Commission in terms of overarching EU interests. On more than one occasion, the Council has explicitly told the Commission to keep the Community's political considerations in mind when administering anti-dumping laws (Council Reg No. 2022/95 1995, recital 80). "The Council reaffirmed that the Commission, in making its proposals, must give proper consideration to the Community's stated commitment to encourage trade with Russia in order to facilitate its transition to a market economy. This political requirement must be taken into account when adopting anti-dumping measures" (Agence Europe 1995b). "The Council asked the Commission to systematically take into account the political objective of encouraging trade in order to facilitate Russia's transition to the market economy, even when deciding anti-dumping measures" (Agence Europe 1995a). While the Council would certainly like to inject its political will into the determination of anti-dumping cases, the explicit power of the Council is a veto power.

In sum, the Council plays a substantial oversight role in approving or denying Commission determined dumping duties.[40] This role is not as well understood as the Commission's role, however it does seem to influence the level of EU trade protection. In spite of what appears to be some role for the Council in rendering anti-dumping determinations, in this project I choose to focus on the role of the European Commission. First, there is no systematic evidence on the Council's voting behavior so it is not possible to unravel what types of intra-Council negotiations are going on related to NMEs. Second, in this project I am most concerned with the process of administering

trade laws. Since the Council simply has veto power, it is not directly involved in interpreting and administering the trade laws. For these reasons, chapter 6 on the application of anti-dumping laws by the European Union will focus exclusively on the activities of the European Commission.

Anti-dumping Laws and Non-Market Economies

Article VI of GATT focuses on dumping which occurs in the "ordinary course of trade." In 1955 when this was drafted, trade with non-market economies hardly fit this description (European Commission 1997). An interpretive note to Article VI of the GATT was included with the original draft that recognized the difficulties in determining ordinary trade with state controlled economies. However no suggestions were proffered as to how normal value might be calculated in such dumping cases. The GATT defined non-market economies and set out broad guidelines as follows:

> It is recognized that, in the case of imports from a country which has a *complete or substantially complete monopoly of its trade* and where *all domestic prices are fixed by the state*, special difficulties may exist in determining price comparability for the purposes of paragraph 1, and in such cases importing contracting parties may find it necessary to take into account the possibility that a strict comparison with domestic prices in such a country may not always be appropriate (Bael and Bellis 1990, 66 (my emphasis)).

The GATT definition of a non-market economy described a country with a complete state monopoly over trade and domestic prices. For countries with this type of economic system, the GATT allowed different anti-dumping rules to be applied. The

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[40] Note, the final oversight of anti-dumping determinations comes from the Court of First Instance and the European Court of Justice. For an example, see European Court of Justice 1991.

ambiguity in the GATT rules allowed the West to devise special trade laws to address the possibility of Communist dumping.

The West created a dichotomy: non-market economies and market economies. Neither the U.S. nor the EU had clear definitions or criteria to make this distinction. The United States did not come up with a legal definition of "non-market" until 1988. As codified in the Omnibus Trade and Competitiveness Act, "The term 'non-market economy country' means any foreign country that the administering authority determines does not operate on market principles of cost or pricing structures, so that sales of merchandise in such a country do not reflect the fair value of the merchandise" (See OTCA, Pub. L. 100-418, 1316 (b), 102 Stat. 1107, 1187). In practice, only Communist countries were grouped in the "non-market" category. All other countries were labeled market economies, and the aforementioned anti-dumping rules were applied to them. But non-market economies were singled out for extraordinary trade protection.

The West perceived that not only did non-market economies have an extraordinary capacity to dump but an incentive to dump as well. These incentives and capacities were framed in both economic and ideological terms. The ideological nature of the definition is evidenced in the fact that Yugoslavia was exempted from non-market economy treatment. In spite of its socialist system, Yugoslavia was treated as a market economy by the West. Moreover, socialist systems in Latin America or countries with substantial portions of the economy controlled by the state, such as Egypt and India, were never labeled non-market economies. NME or state controlled economy were economic labels for Communist countries. NME was always a political and economic designation to the West.

Special Anti-dumping Regulations: The United States

As a result of the ambiguity of Article VI of the GATT on anti-dumping laws and non-market economies, the United States developed a "surrogate third country method" to determine normal value in cases involving state-controlled economies. The surrogate or analogue country method uses the prices in a third country to determine what constitutes normal value in NME anti-dumping cases. This means that the prices charged in the non-market economy are disregarded, and the prices charged in a surrogate country are substituted in order to come up with a commodity's "normal value."

Starting in 1978 with a precedent setting case against Polish golf carts, the ITA began to employ this method to calculate the normal value for imports from NMEs (61 FR 29543 1996; Holzman 1987b). A surrogate is selected, which is at a comparable state of economic development to the non-market economy against which a case has been filed. In selecting a surrogate the ITA is instructed to look for a "significant producer of comparable merchandise at a comparable level of economic development" (56 FR 20588 1991). Selection of the surrogate is primarily based on five criteria, but this fluctuates based on the type of good under investigation and the nature of the non-market economy involved. The five basic criteria are overall level of economic development, per capita GNP, growth rate of per capita GNP, significance as a producer of a like product, and the distribution of labor between the agricultural and non-agricultural sectors (56 FR 60969 1991). The ITA then values the physical factors used in producing the allegedly dumped good in the surrogate country's factor prices.

The factors of production are valued using published information on factor costs from the selected NME's surrogate(s). These include labor, energy, and raw material

costs. Separate profits (8%) and expenses margins (10%) are also added. The resulting constructed value is converted into dollars at the surrogate's exchange rate to arrive at a dollar foreign market value. In 1988, the Omnibus Trade and Competitiveness Act adopted this "factors of production methodology" as the preferred method for determining the normal value (also called foreign market value) of imports from non-market economies (Willkie 1990, 517).

In practice the surrogate method values the prices for the factor inputs of commodity X in the surrogate country. For example, in a case against bicycles from Poland, a surrogate such as Brazil might be chosen. Then the factors of production that go into the manufacturing of bicycles would be determined, based on information supplied by Poland as well as ITA research. Such a list might include rubber tires, steel frames, plastic tubing, chrome gears, labor costs, the cost of electricity to power the factory in which the bicycles are produced, the cost of gas to power the machines which solder the bike frame together, and the cost of the cardboard boxes in which the bicycles are shipped, etc. These factors of production are then valued using a per unit cost supplied by the surrogate. Profit margins and margins for general expenses are added to the constructed value to arrive at a "normal value."

In market economy cases, each firm alleged to be dumping receives a separate dumping margin. In practice, this means that if five firms export commodity X to the United States, in a dumping case there could be five dumping margins assessed. In a NME there is a single country wide rate. All industries are assumed to be under the control of the government, and therefore there are no separate rate assessments. "The purpose of applying one country-wide rate in an NME context is to prevent an NME

government from later circumventing an antidumping order by controlling the flow of subject merchandise through exporters which have the lowest margin" (62 FR 61754 1997). This rule has been modified by the ITA, and in some cases separate rates are assessed if the firm can demonstrate an absence of government control in both law and fact with respect to exports. However, the anti-dumping law as applied to NME stipulates a single country wide anti-dumping margin, and separate firm specific margins are the exception.[41]

Special Anti-dumping Regulations: The European Union

The European Union uses a modified surrogate price method, derived from the United States method but different in its application.[42] The method is largely the same, but instead of calling third country price proxies "surrogates," the EU refers to them as "analogues."[43] The EU still rejects the prices of goods as reported by NMEs, arguing they are "by definition unreliable and unusable" (Inama and Vermulst 1999, 249). The Commission has four authorized ways of using an analogue to derive prices to be used in a NME case. These include: 1) using the actual prices that a given commodity is sold for in the analogue; 2) using the export price of the commodity from the analogue to another market economy; 3) using a constructed value measure of the price of the commodity in

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[41] Separate Rates criteria were established in Sparklers from China (56 FR 20588 1991) and Silicon Carbide from China (59 FR 22585 1994). See Sebaic Acid From China (59 FR 28053 1994), Roller Bearings from Romania (62 FR 31075 1997), Pressure Pipe from Romania (65 FR 5594 2000), and Fertilizer Grade Ammonium Nitrate from Russia (65 FR 1139 2000) for examples of separate rate determinations.

[42] While non-market economies have received different treatment under anti-dumping laws starting in the 1950's, it was not until 1979 that the EU and other signatories to the GATT codified the surrogate or analogue country method of adjudicating non-market economy anti-dumping cases (European Commission 1997, 3).

the analogue in the event that there are inadequate domestic sales; and 4) use of the price paid in the EU for the commodity (Fine 1988, 100-101). However, the EU prefers to use the actual prices of like product in the analogue as a price proxy for the non-market economy commodity prices, thereby favoring method #1 (Fine 1988, 102).

> When determining normal value for non-market economy countries, it appears prudent to set out rules for choosing the appropriate market-economy third country that is to be used for such purpose and, where it is not possible to find a suitable third country, to provide that normal value may be established on any other reasonable basis. In the case of imports from non-market economy countries and, in particular, those to which Council Regulation (EC) No. 384/96 (5) applies, normal value shall be determined on the basis of the price or constructed value in a market economy third country to other countries, including the Community, or where those are not possible, on any other reasonable basis, including the price actually paid or payable in the Community for the like product, duly adjusted if necessary to include a reasonable profit margin. An appropriate market economy third country shall be selected in a not unreasonable manner, due account being taken of any reliable information made available at the time of selection. Account shall also be taken of time limits; where appropriate, a market economy third country which is subject to the same investigation shall be used (Council Reg No. 384/96 1996, Article 2 (7)).

When selecting an analogue, the Commission looks for a country producing a like product using the same manufacturing processes and technical standards on the same scale as the non-market economy. While the United States tends to stress the importance of having surrogates at similar levels of development, the European Commission focuses more heavily on similarity of production processes in selecting analogues (Council Reg No. 384/96 1996, Article 2 (7)).[44] Then the Commission must determine the normal value of the product by looking at several criteria in the analogue, including: the domestic price of the product in the analogue; the export price of the product sold to a third market

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[43] Analogues and surrogates are exactly the same—third country price proxies for NMEs. They will be used interchangeably in this project.

economy by the analogue; the constructed value of the product in a market economy; or as a last resort, the price paid for the product in the course of normal exchange in the EU itself. This is the order of price preference for the determination of normal value using an analogue (COM Doc. (EC) No. 384/96, Article 2(5)).

For example, in a 1985 dumping case involving ice skates from Hungary, Czechoslovakia, and Romania, the prices incurred by Yugoslav producers of ice skates were used as surrogates to calculate dumping margins against Hungary, Czechoslovakia, and Romania (Commission Decision 1985).[45] More recently, Brazil was used as an analogue to determine prices in an anti-dumping case against Ukrainian silicon carbide producers (Council Reg No. 1786/97 1997), and India was used as a analogue for China in a case involving unbleached cotton (COM Reg No. 2208/96 1996). Common analogues for non-market economies in EU anti-dumping cases include Korea, Thailand, Brazil, India, Malaysia, and Indonesia. I will take up the problems and issues associated with surrogate/analogue selection in more detail in the case studies in Chapters 5 and 6.

In practice this means that the EU solicits domestic price information, factors of production information, and general microeconomic data from similar types of companies in "market economies." The companies have to furnish documented, verifiable economic data in order for it to be used by the EU in its cases. If the company agrees to cooperate, and the information it provides is adequate, the EU will use the third country analogue's factor input prices in order to determine what are considered

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[44] For an application see (Council Reg No. 1006/95 1995).

[45] Again note this interesting political example. Yugoslavia is classified as a "market economy" and its own prices are used in a parallel anti-dumping case. Yugoslavia is then used as a "market economy surrogate" since the rules stipulate that the actual domestic prices in non-market economies cannot be used in anti-dumping investigations.

"comparable" prices in the non-market economy. In essence, the costs of production of the analogue are substituted for the costs of production in the non-market economy in order to arrive at dumping amounts, duties, and margins.

Conclusion

In sum, special trade laws have developed to address trade with non-market economies. One of these special modifications is the use of a surrogate or analogue country method in determining the normal value of commodities in non-market economy anti-dumping cases. The surrogate method uses price proxies to determine the normal value of NME commodities, in order to determine if there is dumping and to calculate dumping margins. As such, NME prices are disregarded and substituted with prices from "comparable" countries.

In the world of anti-dumping one is either a market economy or a non-market economy. There are no special rules for shades of economic gray. It is important to note, that other types of developing countries, including countries in which there are state-controlled industries, like cotton in Egypt, or metals in Brazil, or chemicals in India, are not subject to these special trade rules. Only non-market economies have their domestic prices summarily disregarded in anti-dumping cases. Once a country is labeled a market economy, then the domestic prices even for state controlled industries are accepted as true representations of "normal value," and used by the ITA and the European Commission in administering anti-dumping cases.

The domestic prices supplied by developing countries such as Indonesia or Bangladesh or Thailand, are not immediately disregarded based on the *presumption* that

they must be faulty, even though the information supplied by them may be deficient in any number of financial respects. This presumption of faulty, unreliable, and possibly deceitful information follows non-market economies and affects the way in which cases are adjudicated. I will examine the way these presumptions about NMEs affect the application of anti-dumping laws in the following chapters. I argue these hostile presumptions about NMEs continue to impede the normalization of trade relations between the West and NMEs.

Chapter 5: The U.S. International Trade Administration and Trade with Non-Market Economies (1991-present)

> Almost everyone, domestic producers and non-market economy exporters alike, agrees that our current system of remedies with respect to imports from non-market economies does not work as well as it should. Current law is so arbitrary and unpredictable that a domestic industry contemplating an import relief petition and a non-market economy exporter seeking to price goods for the U.S. market both face the same problem—neither can accurately predict what constitutes "fair market value" under the law.
> --Alan Holmer, General Counsel, Office of the U.S. Trade Representative Testifying in Trade Hearings, as quoted in (Carey, Cunningham and Abbey 1993).

Introduction

Non-market economies are subjected to an usual number of anti-dumping cases. Figure 5-1 shows the absolute number of cases initiated against NME imports by year.[46] Between 1980-2000, 168 cases were initiated against imports from non-market economies. The charts in chapter 1 demonstrated that when compared to the number of cases against other countries, this number is large in relative terms as well as absolute terms (see figure 1-7). The simple explanation behind the large number of anti-dumping cases is that domestic industries have a propensity to file cases against NMEs. But what explains this propensity? The statistical analyses in chapter 3 demonstrated that industry level factors are not sufficient to explain patterns of trade protection against NMEs. Macroeconomic factors might help explain cycles in anti-dumping use, although in the

[46] In keeping with the tracking system of the U.S. Department of Commerce, each case against the USSR prior to 1991 is counted as a single case. After 1991, the cases are counted against each of the individual republics named in the case.

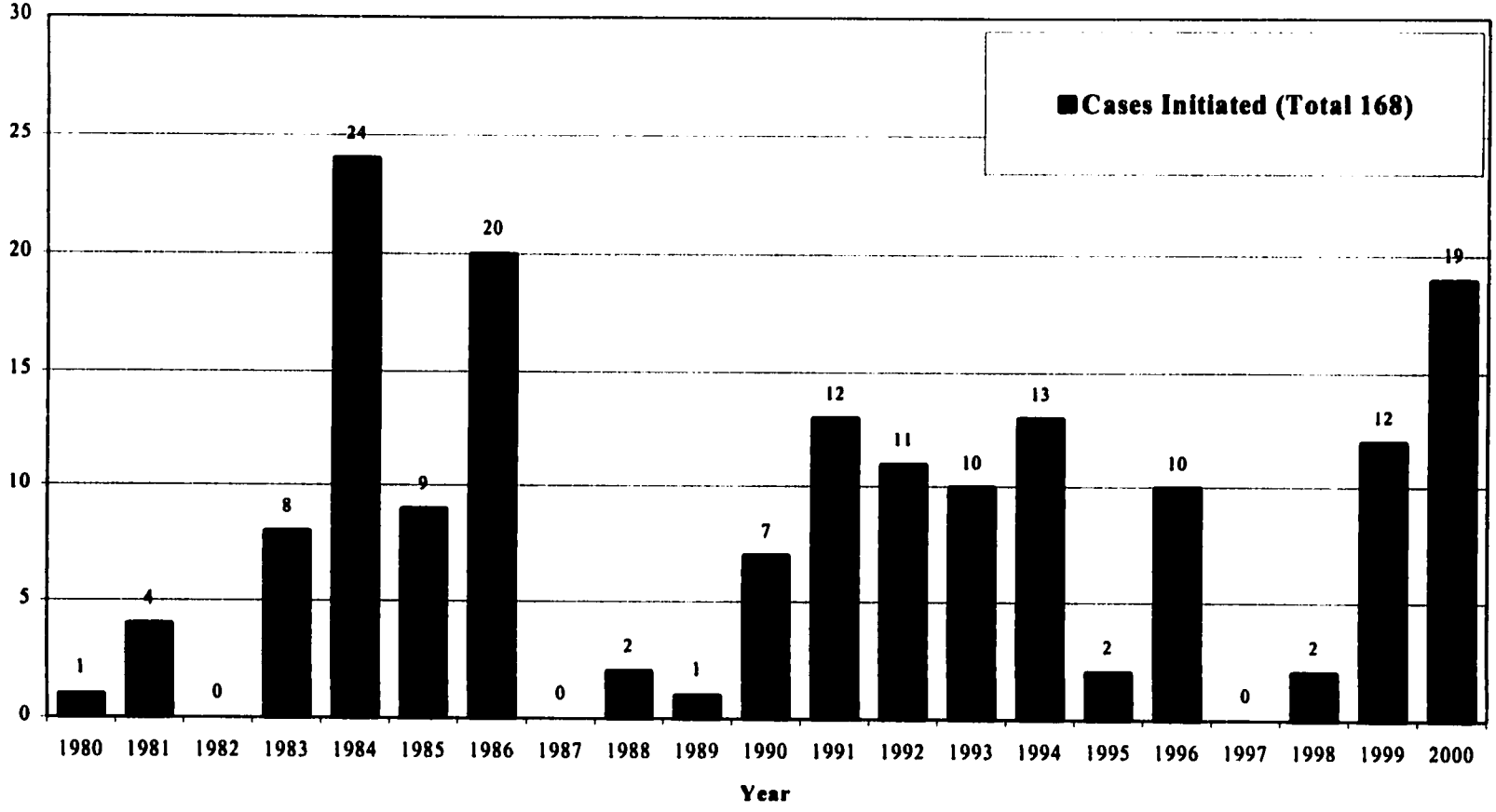

Figure 5-1: Total Number of U.S. Anti-dumping Cases Initiated Against Non-Market Economies Per Year

Source: U.S. Department of Commerce, International Trade Administration, *Anti-dumping and Countervailing Duty Petitions Filed Since January 1980,* . www.ita.doc.gov/import_admin/records/stats.

case of non-market economies this factor was not significant in explaining anti-dumping use against non-market economies.

In this chapter I will discuss how the structure and interpretation of U.S. anti-dumping laws as applied to non-market economies by the International Trade Administration encourages a disproportionate use of trade protection against NME imports. In chapter 4 I explained the difference between a typical anti-dumping case and a NME anti-dumping case. In this chapter, I explore in more detail how the United States has used the special NME surrogate country method in anti-dumping cases against non-market economies, and show how this method encourages domestic firms to abuse anti-dumping laws. Since the ITA is the agency charged with rendering the dumping determination and the calculation of normal value, I will focus exclusively on its role in NME cases.

I demonstrate that the surrogate country rule adopted during the Cold War was based on beliefs about the threatening and antagonistic nature of NMEs. These beliefs continue to affect the way that formal changes to the NME anti-dumping laws are interpreted in the post-Cold War period. I examine two major rule changes to the anti-dumping laws enacted by the United States starting in 1988. These modifications are designed to make the laws more "fair" to non-market economies. However, I contend that these formal rule changes have not altered outcomes or processes as one would predict, because of lingering beliefs about the threatening nature of trade with non-market economies.

In this chapter, I test hypotheses #1-5, using a combination of case law, Department of Commerce reports, International Trade Administration (ITA) internal

unpublished memoranda and correspondence, and interviews. I examine the universe of anti-dumping cases against non-market economies over a 20 year time period, focusing particular attention on the precedent setting cases over the past 10 years. This chapter is divided into three parts: belief origin and institutionalization; belief stickiness; and the dynamics of belief change.

Part I: Belief Origin and Institutionalization

Historical Background: The Surrogate Country Method (Constructed Value Method)

The surrogate country method, also called the constructed value method, originated in the now infamous Polish Golf Cart case (43 FR 1356 1978). The Treasury struggled to interpret the Congressional intent of Section 205 (c) of the Anti-dumping Act of 1921, which instructed how to calculate normal value in NME cases (Department of Treasury 1977a).[47] Section 205 allowed use of either the prices in a non-state controlled economy (i.e. a market economy) or, if such prices were unavailable, a constructed value measure of "fair" value. There were two primary concerns with the constructed value method. First, a constructed value method would be time consuming and expensive for the United States to administer. Second, a constructed value method might violate Congressional intent.

Congressional intent was clearly to use U.S. prices or other market economy prices as a substitute for NME prices, not to construct a value using surrogate prices (Department of Treasury 1978). The Senate Finance Committee voiced concern about using a constructed value, which might be insufficient to counteract dumping from non-market economies. The Senate Finance Committee was concerned with "both below

costs sales and the *state controlled economy situation*" (Department of Treasury 1977a, (my emphasis)). This was not just a case of dumping, but *dumping by non-market economies*. Non-market economy dumping was perceived to be more threatening than ordinary dumping.

In this case, the Treasury tried to determine a fair way to calculate the normal value of Polish golf carts. Traditionally the prices in another market economy that produced the like product would be used to determine the normal value for Polish imports. Because the United States and Poland were the only producers in the world of electric golf carts, following the traditional method of determining normal value would have required the use of U.S. prices as measures of "fair value." As such this would have completely blocked Polish golf carts from the U.S. market. The Polish government became involved in the case, thereby raising its political importance. An internal Treasury Department memorandum commented that "The Poles have chosen to make a major political issue of this case, characterizing it as symbolic of their ability to expand their industrial exports to the United States" (Department of Treasury 1977b).

In the end the Treasury departed from precedent and from Congressional intent and adopted a constructed value or surrogate method of determining normal value in NME anti-dumping cases. From its inception this method has been politically charged both within the United States and between the United States and NMEs. This constructed value methodology was supposed to improve the fairness of the anti-dumping laws by not *de facto* excluding NME exports from the U.S. market. However, I argue it was adopted

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[47] In 1978, the Department of Treasury still administered anti-dumping laws. Responsibility for administration of anti-dumping determinations was transferred to the Department of Commerce in 1980.

during a time of fundamental distrust of non-market economies, and its administration continues to reflect the presumption that NMEs are particularly threatening.

To recap, to determine "fair" or "normal" value" in cases involving non-market economies, the prices in the NME are rejected, and surrogate price proxies are used instead. This method is referred to as the surrogate country method or constructed value method. "In accordance with section 773 (c) (4), the Department, in valuing the factors of production, shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are comparable in terms of economic development to the NME country and are significant producers of comparable merchandise" (65 FR 1117 2000). In this way a "normal price" is constructed using the prices of factors of production in a surrogate. Each factor of production is valued in a surrogate or surrogates, and then added together to arrive at a "normal value" for the NME import. The normal value is then compared to the export price (price of goods brought into the United States), and the difference constitutes the dumping margin. If the goods in question are dumped and causing injury to a U.S. industry, a dumping duty is imposed. This method is based on the presumption that there are no meaningful prices in a non-market economy.

Surrogate Selection in Practice

"Congress provided the Department [ITA] with broad discretion in selecting surrogate countries in NME cases" (65 FR 1139 2000). The surrogate is supposed to be economically comparable in terms of development level to the NME. There are general guidelines for surrogate selection, which are supposed to be based on objective economic

criteria. The five basic criteria are: overall level of economic development, per capita Gross National Product (GNP), growth rate of per capita GNP, significance as a producer of a like product, and the distribution of labor between the agricultural and non-agricultural sectors (56 FR 60969 1991). In actuality the Office of Policy in Import Administration at the Department of Commerce bases its surrogate recommendation to the trade analysts on three factors: per capita GNP, real growth of GNP, and labor distribution (U.S. International Trade Administration 1996; U.S. International Trade Administration 1999c; U.S. International Trade Administration 1999d). However, in practice analysts only use per capita GNP in selecting a proxy, since there is no way to weight the importance of the factors.[48] This means that the only criterion actually used to determine price proxies is per capita GNP. Table 5-1 illustrates the surrogate selection in three recent anti-dumping cases when GNP per capita was the sole economic criterion.

Using a surrogate's prices for factor inputs is premised on there being a relationship between macroeconomic factors and industry specific costs. There is little empirical evidence that comparable per capita incomes are stable predictors of relative factor endowments, hence relative factor prices. This renders the use of the surrogate's factor prices methodologically suspect (Holzman 1987b). Intuitively, it is difficult to believe that the cost of labor in Tunisia and Russia, or Oman and the Czech Republic approximate each other simply because these countries have a similar GNP per capita.

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[48] Information confirmed in interviews with trade analysts in the Office of Antidumping Investigations, U.S. International Trade Administration, at Department of Commerce, Washington, D.C. February 2001. Note, I assured my interviewees anonymity therefore no full names nor full titles are cited in this piece.

Table 5-1: Recent Surrogates Proposed for Non-Market Economies

	NME	*Surrogates*				
Case #1	*Russia*	Tunisia	Colombia	S Africa	Venezuela	Poland
GNP/capita	$1999	$2100	$2250	$3160	$3670	$2270
Case #2	*Czech*	Brazil	Chile	Malaysia	Oman	Mexico
GNP/capita	$5200	$4700	$5020	$4680	$4950	$3680
Case #3	*China*	India	Pakistan	Sri Lanka	Philippines	Indonesia
GNP/capita	$750	$430	$480	$810	$1050	$680

Sources: (U.S. International Trade Administration 1996; U.S. International Trade Administration 2000d; U.S. International Trade Administration 2001b).

Not only is the economic justification for the method dubious, but the manner of administering the surrogate method is biased against NMEs. The ITA wields considerable discretion in the choice of a surrogate. This discretion leaves room for beliefs and perceptions about NMEs to affect the implementation of the laws. Within the broad guidelines, it is possible to select a surrogate that will yield more or less disadvantageous results. For example, in an interview with an analyst at the Department of Commerce, the analyst said he was presently working on a case against Chinese imports and had come up with a 700% dumping margin. He said this was too high and would raise red flags so he was going to "tweak" the numbers to come up with a better margin.[49]

Surrogates are chosen that are not economically comparable. Surrogates are chosen that do not produce similar commodities. Surrogates are chosen that have

[49] Interview with analyst in Office of Antidumping Investigations, U.S. International Trade Administration, at Department of Commerce, Washington, D.C. February 2001.

erroneous firm level financial data. Surrogate selection can change whether NME imports are "guilty" of dumping or not, since they directly impact the calculation of normal value. Multiple surrogates can be used on a single case. All of these practices ensure a method that is already biased against non-market economies will certainly result in trade protection. I contend that this manner of selecting and using surrogate information reflects Western concerns about trade with non-market economies. I provide some examples as points of clarification.

The surrogates are often not economically comparable to the non-market economies. In *Steel Plate from Ukraine (1997)*, Brazil was used as a surrogate even though Brazil's GNP was more than double Ukraine's, and each was classified in different tiers of countries according to the World Bank. Moreover, Brazil's accounting systems did not conform to generally accepted accounting principles. This is often cited as a reason for rejecting data from firms in NMEs in transition (62 FR 61754 1997). In this case Brazil was not only a poor proxy for Ukraine, but its prices for factor inputs were distorted by its unorthodox accounting system.

In some cases the surrogate prices are used, even though the ITA acknowledges that they are faulty. In *Sulfanilic Acid from the People's Republic of China (1992)*, India was used as a surrogate for the cost of acid (57 FR 9409 1992). However, India had tariffs of 85% on imports of acid. This tariff level was high enough to alter the domestic prices of acid, thereby inflating the prices used in the Chinese case. In spite of these price abnormalities, Indian costs were used and Chinese prices disregarded in assessing a dumping margin (U.S. International Trade Administration 1998). The surrogate choice

can inflate the factor costs and prevent finding a NME comparative advantage in the production of a commodity.

Surrogates can be changed part way into a case, which further confounds the process and ensures that the NME will be kept guessing as to what price is the final "normal" value. In practice, this acts as a safeguard against the NME being able to defend itself against dumping allegations. For example, in *Tapered Roller Bearings from Romania (1997)*, the surrogate was changed during the administrative review. First Thai prices were used, and then in the follow-up investigation Turkish prices were used in determining normal value (62 FR 31075 1997). The Romanian firm could not even price to avoid dumping charges because it would have no foreknowledge of the changing "normal value" price target. The only safe price, or price that would definitely qualify as above the dumping threshold, would be so high as to price Romanian goods out of the U.S. market. Changing surrogates mid-way through the case's administration guarantees that the NME will face ever changing price targets for dumping, and be unable to anticipate ways to defend itself against dumping allegations.

Finding a surrogate that is a producer of comparable products is not always possible.[50] This is especially problematic if the product under consideration is unique, meaning there are certain factor inputs only found in the country of production. In the case of *Certain Cased Pencils from the People's Republic of China (1994)*, Chinese producers used a special kind of wood for the production of pencils. Wood is the primary input in pencils and comprises over 50% of the cost of production. No other producer in

[50] "The term "comparable" encompasses a larger set of products than "such or similar" (62 FR 31075 1997). The ITA has identified comparable merchandise on the basis of similarities in production factors (physical and non-physical) and factor intensities.

the world used this kind of wood. So the prices of "similar" but much more expensive wood inputs were used instead to determine normal value. These "similar" wood products were produced and sold in the United States. In this case, the primary factor input was valued in a more expensive wood and in the prices of the plaintiff country (59 FR 55625 1994). Final dumping margins were assessed to the Chinese producers.

In cases against *Magnesium Metal from Ukraine (1995)* and *Beryllium Metal and High Beryllium Alloys from Kazakhstan (1996),* both countries were using chemicals, raw materials, and/or production processes that were unique (60 FR 16433 1995; 61 FR 44212 1996). No comparable producers could be found in the world. These unique production activities should constitute a comparative advantage. By substituting price proxies using surrogates that are not even producing related products, any potential comparative advantage is summarily rejected.

Multiple Surrogates

In addition to the host of problems associated with the choice of a reasonable surrogate, the ITA has determined that multiple surrogates can be used in determining a constructed value in NME cases. This means that energy prices could be derived from one country, labor prices from a second country, and other factor inputs from a third country. These prices would then be summed to arrive at a "normal value" (59 FR 28053, 1994; 59 FR 55625 1994; 64 FR 38626 1998). This method arrives at a value that is anything but "normal."

There are many different factors of production included in a constructed value. Typical factors of production include: hours of labor, quantities of raw materials, amount

of energy and utilities consumed, representative capital costs, freight charges, profit margins, and packing expenses (U.S. International Trade Administration 2001a). If there are ten factor inputs and four different surrogates used in the same case, it is very difficult to know what the final "normal" value will be.

Table 5-2 illustrates the sheer complexity involved in the calculation of normal value. The table lists a number of the factor inputs involved in the calculation of normal value for a given commodity, and which surrogate was used to price each factor. Because of the large number of factors that go into the production of a single commodity, all of them are not included in the table. Given the number of factors and the number of surrogates, there are an enormous number of permutations possible in the construction of "normal value." This illustrates the arbitrariness of normal value calculations, and how impossible it is for a NME to know *a priori* what price will constitute normal value.

Because no predictable scheme exists for weighting various macroeconomic and industry-specific factors in the choice of a surrogate, the NME exporter must estimate a range of possible foreign market values for each potential export price (Brown 1989). Thus unlike market-economy producers who know whether they are technically dumping, NMEs may dump involuntarily simply because they can not know what price will turn out to be their product's constructed market value. The only sure figure is a cost above the price of like products produced by U.S. firms. However, non-market economies cannot sell their products for the same price as U.S. firms and expect to break

Table 5-2: Surrogates in Selected Recent U.S. Anti-dumping Cases

Case No.	Product	NME	Surrogate	Selected Factor Inputs (not exhaustive)
A-485-804	Welded Steel Pipe	Romania	Colombia	marking paint, electricity, zinc, natural gas, unskilled labor
			Thailand-	zinc and steel scrap, packing materials, freight, overhead
A-821-807	Ferrovanadium	Russia	South Africa	sodium ash, lime, electricity, labor, freight
			Thailand	thinner, paint, steel sheet,
			Turkey	sulfuric acid
			Brazil	nitrogen
			Poland	natural gas
A-823-806	Pure Magnesium	Ukraine	Indonesia	electricity, diesel fuel, unskilled labor, freight
			Egypt	natural gas
A-834-805	Beryillium	Kazakhstan	Algeria	alumimum hydroxide
			Colombia	red lead
			Ecuador	ammonia water
			Peru	resin, electricity, coal, unskilled labor, plastic bags
			Tunisia	sulfuric acid
			world composite	beryl ore
			EU	base metal waste scrap, inorganic bases/oxides
			Brazil	freight, factory overhead

Sources: U.S. International Trade Administration, 2001. *Index of Factor Values for Other Non-Market Economy Countries.* www.ita.doc.gov/IAFrameset.html

into the market. Even a Senate Trade Hearing acknowledged these problems with the anti-dumping law:

> The current anti-dumping duty law and procedures as they apply to non-market economies do not work well... As a result, a non-market economy country typically is unable to predict whether or not a particular U.S. price will be considered a dumped price, and is unable to structure its activities accordingly. In addition, an American industry faced with low-priced competition from a non-market economy producer is unable to determine whether the anti-dumping duty law would provide a remedy. From Senate Report. No 71, 100th Cong., 1st Sess, 108 (1987), as quoted in (Carey, Cunningham and Abbey 1993).

As a point of illustration, a delegation from the U.S. Import Administration was visiting Chinese factories as part of its review of non-market economy foreign producers who export goods to the United States. At one factory the delegation was shown the production line and facilities, and regaled with details about how this factory was embracing supply and demand economics. When asked about the cost of production and the ability of the factory to export goods to the United States, the manager lamented U.S. anti-dumping laws as trade impediments. The manager complained that even when the factory's goods were priced according to the cost of production and all relevant documents and information were supplied to support that assertion, the goods were still slapped with anti-dumping duties. So the manager suggested, "If you tell us what price will not be considered dumping by the United States, that will be the price we will charge for our products."[51]

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[51] Lecture by Susanne Lotarski, Director of International Economic Policy office of Eastern Europe and Soviet Affairs, International Trade Administration, U.S. Department of Commerce, at Georgetown University, October 19, 1992.

Surrogate Selection: Two Examples

The choice of a surrogate can substantially affect the size of the dumping margin, and even the presence of dumping altogether. I will provide two examples which show how important surrogate selection is in determining the presence or absence of dumping. In *Freshwater Crawfish Tail Meat from the People's Republic of China (1996)*, Spain was chosen as a "reasonable" surrogate (62 FR 41355 1997; U.S. International Trade Administration 1996). Spain's GNP per capita was $13,590 while China's was $530. The ITA rejected India, Pakistan, and Sri Lanka as reasonable surrogates, in spite of more comparable GNP figures, and in the case of India a more comparable production profile.[52]

Spain was a poor fit as a surrogate for numerous reasons. First, Spain was not a primary harvester of the product, and China was. Spain imported crawfish from Portugal; this adds substantially to the cost of production. Second, Spain's industry was so small, and had so many environmental restrictions that the Spanish prices were inflated. In a note to the file, a Department of Commerce Analyst wrote "The [Spanish] officials told me that crawfish is considered a gourmet item, and because of fishing restrictions, very expensive in Spain" (U.S. International Trade Administration 1997d). Third, China and the United States account for 90% of the world production of crawfish and are the only known producers of crawfish tail meat in the world (Sheldon and Mark Attorneys at Law 1997). Therefore, China and the United States are in unique positions because of their size as international distributors. Choosing a very small, niche producer

[52] Note, India, Pakistan and Sri Lanka were the surrogates originally suggested by the Office of Policy based on GNP per capita figures. India does have a seafood processing industry and could have been used

of crawfish is hardly a comparable surrogate. By using a surrogate with a GNP per capita more than 25 times as great as China's, the resulting dumping margin was between 274-427%. Responding to allegations that the surrogate was unfair, the ITA argued that they had full discretion over surrogate decisions:

> In this case, we relied upon the import price for Spain, a country which is not economically comparable to the PRC. Respondents do not contest the Department's authority under section 773 (c) (4) of the Act to rely upon surrogate value date from Spain in the absence of data from an economically comparable country.... Section 773 (c) (1) of the Act requires the Department to value the factors of production based on the best available information.... The statute does not specify what constitutes best available information. Therefore, *these decisions are within the Department's discretion.* (62 FR 41355 1997, (my emphasis)).

The ITA recognized that its choice of a surrogate was unfairly discriminating against Chinese imports. However, the ITA emphasized in its case response, that it had the legal discretion to make these types of decisions. The reasons for the discriminatory treatment lie in presumptions the U.S. holds regarding the nature of trade with NMEs. The ITA can legitimize the choice of inappropriate surrogates because the nature of trade with NMEs requires extraordinary measures and safeguards.

Another case which shows both the discretion enjoyed by the ITA in these decisions, and the substantial effect surrogate selection has on the dumping margin is *Solid Agricultural Grade Ammonium Nitrate from the Russian Federation (2000)* (65 FR 1139 2000). In this case, natural gas was the primary factor input in the production of ammonium nitrate, constituting 30-50% of the total cost of production (White and Case Law Firm 2000b). Therefore the selection of a surrogate was very important, as the

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to determine a constructed value for China. India's GNP per capita was $320, and China's was $530 (U.S. International Trade Administration 1996).

dumping margin would largely depend on the surrogate's factor price for gas. Poland and Venezuela were initially suggested by the ITA as surrogates, based on per capita GNP figures. Poland was eventually selected as an appropriate surrogate and Venezuela was rejected due to "unspecified, non-specific export subsidies" (U.S. International Trade Administration 1999d).[53]

Poland was an inappropriate surrogate for many reasons. First, the Polish government maintained monopoly control over the natural gas industry, thereby controlling production and pricing. This means natural gas prices, the primary factor input, are not market determined in Poland. Second, Poland sourced 80% of its natural gas from Russia: the target of the anti-dumping investigation. So Polish prices for natural gas would be at a premium to Russian prices, since Russia was selling the gas to Poland for a profit. Third, Polish prices are therefore influenced by non-market economy transactions, since the gas was bought from Russia. Any NME influenced prices are supposed to be excluded from consideration in anti-dumping investigations, so using these prices violated legal precedent and grossly affected the calculation of the final anti-dumping margin (See *Titanium Sponge from the Russian Federation*, 57 FR 36070). Polish prices are therefore substantially inflated estimates of what Russian natural gas prices would be for the production of ammonium nitrate.

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[53] In 1993, Poland was the first country to be reclassified as a "market economy" by the United States. Since it is a market economy, its prices can be used directly in anti-dumping cases. The irony is that Polish prices were used in a Russian anti-dumping case, but have not been allowed in Polish anti-dumping cases. Formal rules changed for Poland but the treatment did not. However, in 2001, the ITA was preparing to use Polish prices in a Polish case, which would have been a first. This case has not been completed so it is uncertain how or if Polish prices were used. In this chapter I will explore the topic of reclassification of NMEs in more detail.

If Venezuelan prices for natural gas were used in this case to construct normal value, the dumping margin against Russia would have been 1.01%. A 1% margin is *de minimus* and the case would have been dismissed (U.S. International Trade Administration 1999d). Using Polish gas prices, the dumping margin was 264.59% (65 FR 1139 2000). This was the duty slapped on Russian ammonium nitrate exports.

The choice of surrogates, the use of multiple surrogates, and the preferencing of secondary information are just some of the problems in the administration of anti-dumping laws to NMEs. The examples demonstrate how much discretion the ITA has in administering a NME case and how this discretion can be used to penalize NME imports. The surrogate method provides substantial leeway for ITA interpretations; interpretations based on assumptions and beliefs about NMEs generated during the Cold War. The ITA is quite aware of the arbitrary elements in the calculation of a dumping margin using surrogate values. In personal interviews ITA analysts have acknowledged the ease of adjusting the numbers up or down in order to come up with a dumping figure that "seems appropriate" for the case. There is sufficient discretion built into the law to allow for substantial manipulation of the figures by the ITA. I will demonstrate in Part II how this opportunity for discretionary decision-making is influenced by beliefs about the threatening nature of trade with Communist countries.

The examples provided are for trade over the past decade, when NMEs have been in the midst of extensive economic and political reforms. They are no longer centrally planned economies, but rather economies in transition. Nonetheless, the belief that NMEs are harmful and must be treated with extraordinary trade rules continues to affect the method of administering anti-dumping laws to NMEs.

Information Requirements as Trade Safeguards

The type and quantity of information required of NMEs presents a serious trade impediment as well. NMEs have different information requirements than other countries because of their special status. As such the dumping questionnaire for NMEs is different from that used in other anti-dumping cases. The time deadlines are not different though. However, given the unusual information requirements, the strict time deadlines make the information requirements that much more onerous.

After the ITA opens a case, it requests information from interested parties. The questionnaire and request for information sent to the NME is 150 pages long. It requires the preparation of a formal report, including original and translated versions of all pertinent portions of non-English language documents and financial statements. Information and supporting documentation about all aspects of a firm's business and the businesses of its affiliates are required. Upon receiving notification from the ITA, a non-market economy exporter has 21 days to respond.[54] See table 5-3 for a summary of the information required in the five sections of the Anti-dumping Questionnaire.

The information solicited from the NME is used to determine the factors involved in the production of a commodity, relative amounts of each factor input, and production processes. This information is then valued in the surrogate's prices to construct a normal value. NME *price* information is completely rejected, but the ITA does solicit *production* information from the NME for possible use. This information is also routinely rejected.

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[54] It is possible to get extensions to the time limit. Requests must be formally filed with the ITA, stating the reason for the extension. Only a few days are normally given at a time.

Table 5-3: ITA Request for Information from NMEs in Anti-dumping Case

Section A	Requests information about your organization and accounting practices, and general information regarding sales of the merchandise under investigation.
Section B	Requests information about your **home market**, or where appropriate, a **third-country** market, including a sales list and other information necessary for us to calculate the normal value of the merchandise.
Section C	Requests information about the United States market, including a sales list and other data necessary to calculate the price in or to the United States market
Section D	Requests information about the **cost of production** of merchandise sold in the foreign market and the **constructed value** of merchandise sold in or to the United States, which may be required in connection with the calculation of normal value
Section E	Requests information about further manufacturing or assembly in the United States prior to delivery to **unaffiliated** United States customers

Source: U.S. Department of Commerce, International Trade Administration, *Non-Market Economy Anti-dumping Questionnaire*. www.ita.doc.gov/IAFrameset.html. (note: the bold emphasis is in original)

Even when NMEs submit all known information, it is often deemed inadequate by the ITA and not used. There is a Department preference for verifiable, publicly available information over information supplied by the non-market economy exporter (59 FR 28053 1994; 60 FR 54472 1995). This preference is a function of antagonistic beliefs about NMEs: a belief that NMEs have more of an incentive than other countries to be untruthful in anti-dumping cases. "In typical NME cases, the Department historically has relied on rates supplied by the embassy of the surrogate country, without independently verifying the underlying data" (61 FR 192 1996). Therefore, unverified information from a third country, which might or might not be cooperative, is preferred over actual information supplied by the non-market economy.

If the ITA rejects the information supplied by the defendant in a case (i.e. the NME), the Best Information Available (BIA) is used (57 FR 61876 1992).[55] Because BIA is typically the information submitted by the petitioners in the anti-dumping case, it guarantees that the data will be biased against the defendants and geared toward the highest possible anti-dumping margins. The ITA has acknowledged the questionable veracity of the information provided by petitioners. "BIA is not necessarily the most accurate information but a choice of information on the record which is usually prejudicial to respondents for non-compliance with the Department's requests for information" (56 FR 19640 1991). See table 5-4 for examples of the types of information required by the ITA in an investigation to avoid use of BIA.

While the use of BIA in the absence of verifiable, publicly available information is the standard used in all antidumping cases, it is particularly prevalent in cases involving NMEs (58 FR 7539 1993). In 85% of cases against NMEs between 1988-1993, BIA was used in final anti-dumping determinations. This means that the information used to determine normal value is largely supplied by the same industries accusing NMEs of dumping (Carey, Cunningham and Abbey 1993, 7). Not meeting time deadlines, not providing information in the form required, providing some but not all information, or providing information that can only be used with difficulty, regardless

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[55] Section 776 (a) (2) of the Tariff Act of 1930, as amended provides guidelines for use of BIA:
"If an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested subject to subsections (c) (1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782 (I). The administering authority shall, subject to section 782 (d), use the facts otherwise available in reaching the applicable determination under this title" (62 FR 41355 1997). See also *United States Code Annotated, Title 19 Customs Duties,* 19 § 1677e. Verification of Information, 311.

Table 5-4: Examples of Required Source Documents for NME Investigations

1.	Complete financial statement(s) and footnotes, or interim financial statements and footnotes covering the period of investigation.
2.	General ledger and subsidiary ledgers for accounts receivable, accounts payable and expenses.
3.	Chart of accounts and sub-accounts, translated into English for the period of investigation.
4.	Journals for accounts receivable, accounts payable, and sales, cash book.
5.	Complete Sales Records (in addition to sales journals and ledgers), such as sequential invoice and credit memo files.
6.	Production orders and inventory records.
7.	Bill of materials, labor records, product drawings, specification lists, and other factory production documentation.
8.	Purchase agreements and records of payment made for costs, charges and expenses, such as canceled checks, bank statements, notifications of payment, reconciliations, payment vouchers, and invoices.
9.	Records of payment received for selected U.S. and home market sales.
10.	Sales agreements or contracts, purchase orders, order confirmation production advice, invoices, shipping notices, and bills of landing for the selected sale.
11.	Documentation supporting, and reconciling to appropriate records, calculations of any allowances, allocated costs or weighted average figures used in the questionnaire response.
12.	A compete copy of each sales listing for the months of the period of investigation, as reported to the Department of Commerce.

Sources: Information requested from White and Case L.L.P. on behalf of their client Nova Hut, from ITA, Re: Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from the Czech Republic (U.S. International Trade Administration 2000c).

of the reason, are all justifications for rejection of NME supplied information, and use of Best Information Available (59 FR 22585 1994).

Use of BIA results in substantially larger anti-dumping margins. See table 5-5 for an comparison of dumping margins when the information provided by the NME exporter is used and when BIA is used. "Actual information" in table 5-5 does not mean that NME prices are used. NME price data is always rejected and surrogates are used to price the export commodity in question. However, NME production data, input data, transportation data could all be accepted to determine the factor inputs for a commodity,

Table 5-5: Comparison of Anti-dumping Margins: BIA vs. NME Information

Case	BIA	Actual Information
Sebacic Acid from China	243.4%	43.7-85.5%
Steel Plate from Ukraine	237.9%	99.6%
Lug Nuts from China	45.0%	5.4%
Crawfish from China	201.6%	91.5-156.8%

Sources: (59 FR 28053 1994; 61 FR 58514 1996; 62 FR 41355 1997; 62 FR 61754 1997). Information based on comparison of individual rates (using actual data provided by firm) and country wide rates (using BIA) in Separate Rates Determinations. Note, the actual information still uses surrogates for prices, but it allows for factor input ratios and other industry specific price considerations to be used in the constructed value. Actual information is **not** the price actually charged by the NME.

and then those factor inputs could be priced in a surrogate country. The acceptance of this type of data is reflected in table 5-5, column "actual information." BIA is the outright rejection of the information.

There are many reasons given for rejecting NME information and using BIA. For example, in *Certain Cut-to-Length Carbon Steel Plate from Romania (1993)*, the ITA rejected the information provided by Romanian producers because information provided on one section of the questionnaire did not arrive in a "timely manner." As a result a 75% dumping margin was assessed using BIA (58 FR 37209 1993). In *Heavy Forged Hand Tools from China (1991)*, BIA was used because the Chinese exporter failed to file returns for all producers even though the respondent did not have control over the one omitted producer. Moreover the ITA said the information contained disparities and was improperly formatted (56 FR 241 1991). Duties were imposed.

Finally, in *Ferrosilicon from Russia, Kazakhstan, and Ukraine*, dumping was determined based completely on BIA supplied by the petitioners in the case (58 FR

29192 1993). That means the U.S. firms lobbying for protection supplied all the information used to determine the size of the anti-dumping margin. The ITA rejected the information from Russia, Kazakhstan, and Ukraine arguing it was incomplete, improperly certified and incorrectly filed (57 FR 61876 1992).

The choice to use BIA is up to the discretion of the ITA, and this choice was and is affected by lingering beliefs about the threatening nature of NME exports. The information supplied by the typical "market oriented" developing country may not be perfect, but it is not summarily rejected as it is in the case of NMEs. The ITA's practice of disregarding NME information runs contrary to the spirit of the anti-dumping regulations. Congress stipulated, "If information supplied by a NME country to the Commerce Department permits foreign market value to be determined accurately using the normal methodology, then the Committee expects such methodology to be used by the Commerce Department."[56]

The rejection of information from NMEs is consistent with theories regarding belief perseverance theory. Because beliefs are resistant to change, decision-makers will often reject information that is contrary to their beliefs. The ITA is a disproportionate information processor. If ITA decision-makers believe that NMEs are not to be trusted because they have extraordinary incentives and interests to engage in dumping, then information submitted by NMEs contrary to this belief would be cognitively dissonant. One would expect decision-makers to prefer information supplied by countries rather than NMEs, because of the endemic belief that trade with NMEs is harmful.

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[56] S. Rep. No. 100-71, 100th Cong., 1st Sess, at 108 (1987); Omnibus Trade and Competitiveness Act of 1988, P.L. 100-418, § 1316 (b), and Conf Report No. 100-576, 100th Cong., 2nd Sess at 591 (1988).

In sum, the surrogate selection, use of multiple surrogates, and type of information deemed valid by the ITA are all means of stacking the deck against NMEs in anti-dumping cases. Picking less than comparable surrogates, changing surrogates in the middle of the case, using unreliable surrogate information, and picking multiple surrogates all suggest a fundamental distrust of NMEs. The ITA's method is not arbitrary. It reflects a systematic dislike of the information supplied by NMEs in anti-dumping cases. It demonstrates the extent to which the ITA will erect information safeguard in cases involving these transitional economies.

Lingering beliefs about the harmful nature of NMEs affect the way the ITA perceives the facts in a NME anti-dumping case. The discretion over the administration of a case allows the ITA to act on these beliefs. The information requirements imposed on non-market economies are extraordinary. Similar types of information requirements are not imposed on other developing countries. The creation of extraordinary safeguards and impossible information requirements reflect the underlying beliefs that NMEs are extraordinary and must be approached with trepidation. These beliefs have causal weight in the administration of the trade cases, manifesting themselves in surrogate selection, information decisions, and preference for BIA.

Perverse Incentives Created by the Surrogate Method: Domestic Industries and the Harassment Effect

The present structure of the anti-dumping laws encourages domestic industries to file cases against imports from non-market economies.[57] The high rate of affirmative

[57] Some academics have suggested that the political and technical ease of demonstrating NME dumping accounts for the disproportionate number of complaints against Eastern European producers (Olechowski 1990).

findings and size of dumping margins prompt many U.S. industries to initiate dumping cases against imports from NMEs even if they would not do so in a case involving similarly priced imports from a market economy producer.

NMEs may drop out of an anti-dumping case and simply cease exports because they cannot afford the legal costs of the case. An anti-dumping case can cost a firm anywhere from $400,000 to $1 million and up to defend (Carey, Cunningham and Abbey 1993).[58] This is a substantial amount of money for either a new firm in a NME or a firm in transition in a NME. For example, in a 1993 case against a Hungarian exporter of sulfanilic acid, the Hungarian side had to drop its defense against anti-dumping charges because it could no longer afford the legal fees.[59] Similarly, in the 1999 case against seamless pressure pipe from the Czech Republic, the Czech defendants could not afford the legal fees and dropped out of the case, resulting in high levels of trade protection.[60] In one case it was reported that the cost of responding to the anti-dumping investigation amounted to 10% of the firm's annual export revenue (OECD 1996, 130). The cost of the information requirements pose a barrier to NME trade. Domestic firms have an incentive to file spurious cases in the hopes of deterring even "fair" trade from NMEs.

Even if domestic firms do not win, the mere filing of a case has trade deterring effects (Finger and Murray 1990). In the case of NMEs, it has been demonstrated that the filing of anti-dumping petitions may disproportionately inhibit exporters (Brown and Haas-Wilson 1990). This "harassment effect" persuades the exporter to restrict sales or

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[58] Information also supplied in personal interviews with analysts in Office of Antidumping Investigations, U.S. International Trade Administration, at Department of Commerce, Washington, D.C. February 2001.

[59] Telephone conversation with Analyst at International Economic Policy Office of Eastern Europe and Soviet Affairs, United States International Trade Administration, Washington, D.C. April 16, 1993.

to raise prices, both because the NME has a low probability of winning a case, and to defend against dumping charges is prohibitively expensive.[61] Many NMEs negotiate suspension of export agreements in order to end the anti-dumping investigation. Suspension agreements are estimated to impose even greater penalties on the foreign firm than anti-dumping margins, but they are a quick way to resolve the dispute without lawyers' fees. Additionally, they do not have the same reputational effects on the foreign exporter as dumping margins (Prusa 1992). In the recent Russian steel case, the mere filing of the case caused Russian exports to fall by 90% (*The Wall Street Journal* 1999).

"One lawyer who specializes in international trade says that, for a struggling [U.S.] mill, $400,000 to bring an anti-dumping suit is money well-spent, even without a final ruling; the process runs up the trade gear sufficiently to steer buyers back to domestic steel" (From *the Economist*, quoted in Staiger and Wolak 1994b, 232). These firms have been called *process filers*, meaning they initiate the anti-dumping cases simply for the trade deterring effects. The cases are not really merited, and are initiated to temporarily impede competing imports (Staiger and Wolak 1994a).

For example, in the case of *Ferrovanadium and Nitrided Vanadium from the Russian Federation (1998)*, the domestic industry launched an anti-dumping administrative review of Russian exporters because it had read that there were imports of this product into the United States and it wanted to get protection (63 FR 13031 1998). However, the figures were wrong. There were no Russian imports. Therefore the

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[60] Interview with analyst in Office of Antidumping Investigations, U.S. International Trade Administration, at Department of Commerce, Washington, D.C. February 2001.

[61] For example, in a recent case against Ukrainian exporters, the Government of Ukraine agreed to restrict sales to the U.S., and therefore suspended the AD duty investigation prior to a final determination of

domestic industry was filing a case on the basis of reading that Russia might be exporting to the United States. The domestic industry was not being harmed by the products, because there were no imports. This shows the extent to which the structure of the law has created a perverse incentive to file spurious cases.

In *Magnesium from the Russian Federation* (65 FR 68121 2000), and in *Steel Wire Rope from China* (66 FR 12759 2001), the domestic industries that launched the cases were trying to get protection from NME imports which they argued were hurting their businesses. However, the domestic industries did not even produce the products under investigation (U.S. International Trade Commission 2000a). There were no U.S. suppliers of these products, because they were low margin, low end products. So the U.S. firms were trying to get protection in areas in which they did not even compete with NME industries.[62] This suggests that the present structure of the anti-dumping surrogate method creates an incentive for domestic industries to file cases against NMEs.

One might wonder how any NME imports make it to the U.S. market at all? There are two reasons U.S. firms do not block all NME exports to the United States. First, the cases are costly and second, some firms are unaware that they could win protection.[63] However, the intensity and incidence of trade protection against NME imports suggests that the ease of winning cases against their imports is widely known.

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dumping. See *Suspension of Antidumping Duty Investigation: Certain Cut to Length Carbon Steel Plate from Ukraine*, 62 Fed. Reg. 61766, November 19, 1997.

[62] Author attended the U.S. ITC Court Hearing of Steel Wire Rope from China and India, Washington, D.C., February 21, 2001. The main topic of discussion was how the U.S. industry could file this case given that they did not even produce the product under investigation so they did not directly compete with Chinese imports. U.S. firms argued that although they do not produce the product, and have not produced the product for 10 years because it is too low margin, they *could* produce the product. Since they could potentially produce the product at some future time, they wanted trade protection now just in case.

[63] Interview with Policy Analyst, Office of Antidumping Investigations, U.S. International Trade Administration, at Department of Commerce, Washington, D.C. February 2001.

Are NMEs Institutionally Different from Other Developing Countries?

Can material conditions explain the continued use of the surrogate method against NMEs? Is the surrogate country method still necessary in order to protect U.S. industries from the unusual and harmful economic effects of trade with these communist countries in transition? Perhaps hostile beliefs about NMEs are merited, and non-market economies do pose an extraordinary trade threat in the post-Cold War world? While NMEs have enacted many economic and political reforms, is there still something institutionally different about NMEs? Do they look institutionally different from the surrogates used as price proxies in anti-dumping cases? Are NMEs more authoritarian, or less market oriented than other developing countries? Do NMEs have fewer political and economic freedoms which might explain their more onerous anti-dumping treatment? In essence, can domestic institutions explain differences in protectionism? In addition, do these institutional differences combine with strategic issues to affect country treatment?

If non-market economies in the post-Cold War period are institutionally quite different from other types of developing countries, this would undermine a belief based hypothesis. If NME institutions predict differential treatment, then one cannot separate ideas and interests in this analysis. The Department of Commerce might continue to discriminate against trade with non-market economies because NMEs have really *not* changed enough to merit better treatment. Perhaps non-market economies are less democratic, more state controlled, less politically free, and more corrupt than other types of developing countries. If so, domestic institutions might explain the differential treatment of non-market economies. Perhaps NMEs are also at a lower stage of

economic development, and therefore simply more vulnerable to trade protection than other developing countries. In this section I test the primary hypothesis #1, in order to discern any systematic differences between NMEs as transitional economies and other types of developing countries.

Data and Variables

I used the surrogates selected by the United States in NME anti-dumping cases to construct a data set to test the aforementioned questions (See table 5-6). I compare the domestic institutions of non-market economies and their surrogates to see if there are significant institutional differences. I selected 1997 as a year of comparison, in order to compare non-market economies in transition to other developing countries in the post-Cold War period. I compare several domestic institutional factors that might account for the perceived differences between NMEs and developing countries. The sample was chosen to maximize country diversity, and was limited by data availability.

First, I compare corruption levels. NMEs are widely believed to be more corrupt than other countries, which might account for why they are distrusted. Second, I compare levels of democratization. NMEs are believed to be less democratic, meaning they have less well established democratic political institutions than other developing

Table 5-6: Countries in U.S. Analysis (Total 25)

NMEs		US Surrogates for NMEs		
Bulgaria	Romania	Brazil	Malaysia	Taiwan
China	Russia	Colombia	Pakistan	Thailand
Czech Republic	Slovakia	Egypt	Peru	Tunisia
Hungary	Ukraine	India	Philippines	Turkey
Poland		Indonesia	Spain	Sri Lanka
		Korea		

countries. Less rule of law might make NMEs appear more suspicious. Third, I compare levels of political freedom, meaning civil and political freedoms of citizens. NMEs are believed to be less politically free than developing countries, as a legacy of Communism. Fourth, I compare levels of economic freedom. NMEs are also believed to be less economically free than other developing countries. Many argue that there is an unusually large state presence in their economic activities, and that this lack of "market orientation" might explain the discriminatory treatment of NMEs. In sum, domestic corruption, lack of democratic institutions, paltry political freedoms, and low levels of market-based economic activities might explain U.S. discriminatory treatment of NMEs.

In addition, I look at three strategic factors which interact with domestic institutions and might explain why NMEs are seen as "different" from other developing countries: level of economic development, geographic distance and trade importance. First, countries with less economic power in the international system are more vulnerable. Within the ranks of developing countries, NMEs might have less relative economic clout than other developing countries and could therefore be more politically vulnerable. Second, trade importance might factor in to U.S. calculations of NME trade relations. If a country is of low trade importance, the United States might not worry about treating it poorly, for there would be fewer domestic trade repercussions. Third, geographic proximity could increase the political saliency of the other country's institutions. The United States might be more concerned with the domestic institutions of a neighbor than a distant country, because of potential direct effects (i.e. war, migration, etc.).

Using a logit analysis I test whether there are statistically significant differences between NMEs and other developing countries that the United States has labeled

"similar" across seven criteria: domestic corruption, level of democratization, GDP per capita (as a proxy for level of economic development), economic freedom, political freedom, trade importance, and geographic proximity. The dependent variable is dichotomous country type (1= non-market/0= market). Where some of the data are ordinal and bounded, they have been transformed to meet assumptions of normality.[64] Table 5-7 summarizes the hypothesized direction of the variables.[65]

Results

Table 5-8 summarizes the analysis of the United States data. Because of the high correlation between economic freedom and GDP per capita (r=-.62**), and democratization and political freedom (r=-71**), the models test permutations of the variables to avoid problems of multi-collinearity. The chi-square test shows all five models are significant and robust.

Table 5-7: Summary of Variables

Independent Variables	Expected Sign
Domestic corruption	+
Democratization	-
GDP per capita	-
Economic Freedom	+
Political Freedom	+
Trade importance	-
Geographic distance	-

[64] For the U.S. data, the natural logarithms of GDP/capita and trade importance, the square roots of political freedom, economic freedom and geographic proximity, and the square of democracy are used. For the EU data, the natural logarithms of geographic proximity, corruption, GDP/capita, the square roots of political freedom, trade importance, and economic freedom, and the square of democracy are used.

[65] See Appendix 1 for an explanation of the operationalization and data sources used for each variable. Some of the signs might appear counterintuitive due to the scale used to measure the variables. For example, economic freedom ranges from 1-5 with 1 being more free and 5 being the least free.

Table 5-8: Are NMEs institutionally different from other developing countries?

Parameter Values for Logit Model (US Data, 1997)

Dependent Variable: Type of country (0/1 NME)	Model 1	Model 2	Model 3	Model 4	Model 5
Domestic corruption	-1.02 (0.91)	-0.74 (0.78)	-0.82 (0.75)	-0.78 (0.81)	-1.70* (0.93)
Democratization (institutions)	0.04 (0.03)	0.04 (0.03)	---	---	0.04 (0.03)
Economic Freedom	8.22 (6.16)	5.56 (4.87)	6.59 (5.00)	6.98 (5.85)	---
Political Freedom	---	---	-3.18* (1.70)	-2.50 (1.63)	---
GDP per capita	0.90 (1.24)	---	---	---	0.98 (1.18)
Geographic distance (km)	-0.04 (0.05)	-0.07 (0.05)	-0.06 (0.04)	-0.05 (0.04)	-0.05 (0.04)
Trade importance (US/EU exports to country)	---	---	---	-0.91* (0.54)	-1.19* (0.57)
Constant	-16.62* (20.38)	-3.57 (11.77)	1.64 (12.26)	-5.93 (13.66)	-7.06 (11.97)
Chi-square	10.67*	10.13*	11.52**	15.58**	16.05**
Pseudo R2 (Cox & Snell)	0.35	0.33	0.40	0.46	0.47
% Correctly Classified	76.00%	72.00%	80.00%	88.00%	92.00%
Sample Size	25	25	25	25	25

1. Coefficients are unstandardized logistic regression coefficients: standard errors in parentheses.
2. *p<.05; **p<.01; and ***p<.001.

Geographic distance, democratization, GDP per capita, and economic freedom are not statistically significant in any of the models. Domestic corruption is only significant in the model in which trade importance is included (model 5). Political freedom is only significant in the model without trade importance (model 3). This suggests that there might be an interaction between these variables. Surprisingly, domestic corruption varies in the opposite direction of that hypothesized. NMEs are less corrupt than their developing country surrogates. Also surprising, political freedom has a negative coefficient. NMEs are more politically free than other developing countries.

These two findings are quite interesting, because they show that NMEs are not less free, or more authoritarian, or less market oriented than other developing countries, contrary to popular perceptions. Trade importance is the only consistently significant variable and it is in the direction hypothesized. NMEs are not as important as other developing countries to the United States as trading partners. This could reflect the continuing impediments to exchange relations between the East and the U.S. However, it does not appear to reflect the underlying political and economic institutions.

In sum, NMEs are not institutionally different from other developing countries that are treated like market economies. Russia, China, and Romania, are not more corrupt or less democratic or less economically free, on average, than the countries used as price proxies in anti-dumping cases, such as Colombia, India, and Thailand. This is interesting because it suggests that institutional differences between NMEs and other developing countries cannot explain the discriminatory treatment of non-market economies. This is particularly compelling evidence because it demonstrates that the use of the surrogate country method against NMEs cannot be explained by examining

material conditions. There is no empirical reason why NMEs should continue to be treated differently than other developing countries. Material conditions alone cannot explain the continued use of the special surrogate country method against NME imports.

This analysis supports hypothesis #1. If Cold War beliefs about NMEs affect current trade policy, non-market economies should be treated differently than other developing countries at similar levels of economic development and with similar institutional structures. This is exactly what we see. Beliefs about trade with NMEs are different from beliefs about trade with other developing countries, and as a result the old trade rules continue to be applied. Information about the economic and political reforms taking place in these countries is not being processed by the ITA in a way to change the implementation of the laws. In the following section I will discuss how new information about NMEs is causing the ITA to change the formal rules governing trade with non-market economies. In spite of formal rule changes, the lingering beliefs about the threatening nature of non-market economies impede a change in rule implementation.

Part II: Formal Rule Change but Outcome Stasis: Belief Stickiness

The previous section demonstrated that material conditions do not predict that NMEs should be subjected to the surrogate country method. However, it is possible that the U.S. Department of Commerce has simply not received information about the extent of the reforms in former Communist countries, and if they received this information they would try to correct the continued discriminatory treatment. Or perhaps there is some type of bureaucratic inertia that has prevented formal policy change, in spite of new information. However, if the Department of Commerce has made formal rule changes to

accommodate the changes in non-market economies this shows that new information is reaching the agency and that organizational inertia cannot account for the continued discrimination against imports from NMEs.

Formal rule changes that remain unimplemented would provide compelling evidence that the Department of Commerce was choosing to ignore selective evidence about the changes in NMEs (hypothesis #2). It would support an argument that the U.S. trade agency is hampered by organizational "disproportionate information processing" practices (Jones 2001, 158). Beliefs persevere even in the face of new disconfirming information. Beliefs about former enemies are particularly resilient, causing decision-makers to selectively ignore information that is inconsistent with their belief that enemies, or in this case former enemies, have changed. Beliefs discount new information, stifling change. Even if changes to the formal rules instruct decision-makers to treat enemies more fairly, the decision-makers may continue to be guided by the original belief, namely that enemies are threatening and must be protected against.

In this section I examine one such formal rule change: the Market Oriented Industry Test. The Department of Commerce has self-initiated this formal rule change; it has not been imposed from outside. However, this rule change has been artfully circumvented in the actual administration of the law. The process of administering the cases remains consistent with the belief that non-market economies are inherently antagonistic and trade with them is potentially harmful to the United States.

The "Bubbles of Capitalism" Approach or Market-Oriented Industry Test

The extensive political and economic transitions in non-market economies have made some revisions of the anti-dumping law inevitable. To make the laws more fair and applicable to non-market economy imports, the ITA has enacted changes to the basic surrogate method. Both the U.S. Department of Commerce and the United States Congress acknowledged that certain sectors or regions in a transitional economy will face market prices, or begin to operate under hard budget constraints more quickly than others:

> Attempts by traditional non-market economies to evolve toward market-oriented economies may result in a situation in which a sector of a NME may be sufficiently free of non-market economy distortions so that the actual prices and/or costs incurred in the NME could be used in dumping calculations and render meaningful results (57 FR 24018 1992, esp 24019).

In an effort to render more accurate judgements in anti-dumping investigations, it was determined that reforming sectors in NMEs could potentially be treated differently from the non-market economy in which they were located. Based on Department of Commerce recommendations, in 1988 Congress amended the anti-dumping law. This permitted the use of standard market economy methods in non-market economy cases under limited circumstances. With these considerations in mind, the Department of Commerce began to consider the possibility of a "bubble of capitalism" within a NME.[66]

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[66] In the case of *Natural Menthol From the People's Republic of China* (46 FR 3258 1981), Commerce began to grapple with both regional and sectoral differences in the pace and scope of reform in economies in transition and what this would mean for the application of U.S. trade laws. In this case it was determined that although there were no direct state controls on the production or sale of menthol, the direct control of the state on other sectors of the economy, such as the agricultural sector, indirectly impacted the production of menthol and influenced the production and sale of menthol. Therefore, the menthol producer's factor values of production could not be used in the investigation. In *Sparklers From the People's Republic of*

Guidelines for the MOI Test

The rationale behind the bubbles of capitalism or "market-oriented industry" (MOI) argument was to allow those industries in a non-market economy which have converted to market-oriented incentives to be given the ability to prove that their inputs and pricing structures were completely market determined. This would thereby allow them the use of their own prices for factor inputs in anti-dumping cases.

The MOI test focuses on the nature of the producers in a NME. "The purpose of the MOI test is to determine whether foreign market value [normal value] can be determined *using prices or costs in the NME.* Thus, the test focuses on government control of the domestic industry, rather than on export activities" (60 FR 22359 1995 (*my emphasis*). The ITA clarified the spirit of the test in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China (1997).* "A market oriented industry determination focuses on overall control of the domestic industry, rather than simply on its export activities, and therefore leads to a decision as to whether home market or third country prices within the industry are sufficiently market driven that such prices may be used to establish fair market value" (62 FR 6189 1997).[67]

If an industry were labeled a MOI, it would be subject to antidumping procedures similar to those used for market economies. This would provide a great advantage to the industry. If the actual prices that MOIs paid for their factors of production were used, the comparative advantage of an industry could be demonstrated. Use of a MOI standard

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China (56 FR 20588 1991) and *Oscillating Fans From the People's Republic of China* (56 FR 55274, 1991) Commerce clarified its position on the bubbles of capitalism approach.

[67] This language is designed to differentiate the market oriented industry test from individual treatment consideration. I will discuss the use of individual treatment, namely individual dumping margins for NME firms, in the European case study.

would provide industries in economies in transition with more fair and predictable treatment in antidumping investigations, before the country itself was recognized as a full fledged market economy. Use of the MOI standard would decrease the number of positive final determinations of dumping against NME industries. It may decrease the incidence of dumping complaints against NMEs also, since the determination of dumping would be simpler, less subjective, more consistent, and less prone to abuse. It could also provide an incentive for industries in non-market economies to push ahead with market reforms in order to garner market-oriented treatment.

The MOI procedure evolved over several cases (57 FR 15052 1992; 57 FR 29705 1992; 62 FR 4250 1997). At first the ITA grappled with the issue of what degree of government involvement in an industry would negate the presence of a MOI. Through a series of precedent setting cases, the Department of Commerce clarified its position about what "degree of state control" in the economy would constitute too much control and negate the finding of a MOI (51 FR 30686 1986; 54 FR 11983 1989).

For example, in *Headwear from the People's Republic of China*, the ITA ruled that in spite of the fact that the Chinese headwear industries involved operated under hard budget constraints, were responsible for their own losses, could go bankrupt, could fire their workers, distributed bonuses based on the profitability of the firms, freely determined input suppliers, negotiated prices between buyers and sellers, could determine or change the product mix to be exported, and could select to whom they would export their products, it was ruled that the industries still operated in a system with "rigidities"

(54 FR 11983 1989).[68] These rigidities included government sourcing of one of the factors of production. Government sourcing from a firm would be considered economically intrusive and could possibly affect the financial decisions of a firm. If the share of state-required production is significant (25-50% qualifies as significant but a smaller percentage could qualify given the loose determination of "significant") an industry would fail the test (56 FR 46153 1991).[69]

When the ITA was first developing the idea of a MOI test, it also toyed with using a combination of the surrogate country method and a market economy method. When some of the inputs were unambiguously market determined, the ITA tried to use those costs and prices in calculating a constructed value for anti-dumping determinations. Those inputs whose prices could not be unambiguously shown to be market-determined, would be calculated using surrogate values (56 FR 66833 1991). The ITA rendered a decision employing the partial use of domestic factor prices in a case against *Chrome Plated Lug Nuts from the People's Republic of China (1991)*. The preliminary dumping margin was assessed at 66% using only the traditional surrogate method. In the final determination, when some of the inputs were valued using the NME industry's actual

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[68] Which "rigidities" actually impede market flows and which do not significantly impair the ability of an industry to be market-oriented remains unclear For example, in the United States the Department of Agriculture sets the price of cotton each week, and there is a ban on importing any cotton that is produced in the United States. (Discussion given by Carlos Moore, Executive Vice President of American Textile Manufacturers Institute, at Georgetown University, March 1, 1993). The U.S. cotton textile and apparel industries are considered market-oriented industries and would be judged as such in an anti-dumping investigation by another country. If held to the NME standards, they would not pass.

[69] Commerce ruled in *Chinese Lug Nuts* that even though there was no direct government involvement in the transactions between the Lug Nut producers and the steel suppliers, the fact that 45% of national steel output could be requisitioned by the government at in-plan prices indicates that "the extent of government involvement in the production and pricing decisions for steel generally affects the demand and supply for individual steel products." The U.S. Department of Commerce indicated in this decision that if 25-50% of production may be government directed for consumption that this is significant and that therefore these steel industries "in very large part, exist to service government demand for their output" (56 FR 46153 1991).

prices, the dumping margin was only 4% (56 FR 46153 1991). The partial use of domestic factor prices substantially decreased the final dumping margin, relative to the exclusive use of the surrogate. This shows how the surrogate method inflates dumping margins against NMEs.

However, as a result of a challenge in the U.S. Court of International Trade and evolving positions adopted in two countervailing duty cases, Commerce remanded its determination in *Lug Nuts* (56 FR 57616 1991). In *Lug Nuts* the state had a considerable presence in both the steel and chemicals industries (two significant production inputs). It was originally ruled that the industry still sourced the inputs at market-determined prices:

> We recognize that for certain inputs into the production process, market forces may be at work. For example, inputs may be imported from suppliers in market economy countries. Similarly, we may find that market forces are at work in determining the prices for locally sourced goods in the NME. Where this occurs, we believe that it is appropriate to use those prices in lieu of values of a surrogate, market economy producer, because they are market-driven prices and they reflect the producer's actual experience (56 FR 46153 1991).

However, in the remanded case, the ITA ruled that its previous standard was based on too narrow a scope of inquiry: "The absence of direct government involvement in specific transactions between buyers and sellers does not mean that the terms of those transactions reflect market-determined prices or values. This is especially the case in a non-market economy environment which is necessarily 'riddled with distortions'" (57 FR 15052 1992, esp 15053). This precedent setting case reinforced the presumption that market forces were not at work in a transitional economy: that NMEs were "riddled with distortions." This differs markedly from the presumption of market forces in cases involving developing countries. Presumptions about NMEs are grounded in beliefs about

the threatening nature of trade with NMEs and the perceived unfair advantages conferred by NME economic institutions.

In light of the aforementioned cases, the ITA formulated new criteria --the "Market-Oriented Industry Test"--in order to clarify the definition of what precisely constitutes a market-oriented industry in a non-market economy:

1. For the merchandise under review there must be almost no government involvement in the setting of prices or quantities to be produced, state-mandated production or allocation of output precludes a MOI;
2. The industry producing the merchandise under review should be characterized by private or collective ownership, although a very small, undetermined, percentage of enterprises could still be state owned; and
3. All significant inputs must be paid for in market-determined prices, and for all but an insignificant portion of all the inputs accounting for the total value of the merchandise under review (57 FR 9409 1992, esp 9411).

To qualify for MOI treatment, a NME industry must meet all three criteria. The first criterion of the MOI test addresses the degree of government involvement in pricing and production decisions. The second criterion addresses how different types of ownership could affect the ability of enterprises to "respond to market signals with respect to investment and divestment." The third criterion addresses "inputs and market distortions that may result from central planning activities" (57 FR 24018 1992, esp 24021). The degree of state control, whether it be indirect or direct, that would negate the industry from being considered market-oriented was not specified by the ITA. "There are no set criteria for judging whether, in a particular case, the degree of state control over an economy is such as to make home market prices inappropriate for purposes of foreign market value" (56 FR 46153 1991). This decision is left to the discretion of the ITA.

I will turn to some cases in which the MOI test has been applied to demonstrate that the changes in formal anti-dumping rules have not changed the manner in which the ITA processes anti-dumping cases. The ITA continues to interpret the rules in a manner *de facto* negating the formal changes. I contend that the reason the rule changes have been interpreted to render the changes meaningless is because of lingering antagonistic beliefs about NMEs.

Application of the MOI Test

The MOI test has been in place for almost ten years. There have been numerous MOI cases over this time period. Most of the cases have involved Chinese firms, as they are the most likely industries to be awarded MOI treatment due to the nature of industry and regionally specific reforms in the Chinese transition process. However, over this ten year period not a single MOI has been found. This is no accident. Beliefs about the threatening nature of NMEs continue to affect the interpretation of the MOI criteria.

Analysts in the Office of Anti-dumping Investigations in the ITA have acknowledged in personal interviews that there have been numerous cases in which the NME industries in question did meet the formal criteria for MOI treatment. However, in each case a reason has been found to deny MOI treatment because the ITA is not ready to find a market oriented industry in a non-market economy.[70] The analysts confirmed that the ITA initiated changes that it was not prepared to administer, and they therefore have to find reasons for denying NME firms market oriented industry treatment. The fact that

[70] These interviews were conducted in the Spring of 1993 with follow-up interviews in Winter 2001. During both time periods different analysts admitted that the MOI test was interpreted in a way to deny NMEs market access.

the analysts acknowledge that firms in NMEs can meet the objective criteria of the MOI test, but that the ITA denies MOI treatment because they do not trust NMEs, strongly demonstrates the lingering effects of Cold War beliefs on current trade policy.

The type of proof required to qualify as a MOI is unattainable. The U.S. Department of Commerce established that only verifiable documented data will be adequate to prove market-determined prices in a NME case. This is an impossible hurdle to overcome for transitional economy firms. In fact, certain industries in the United States would not even be able to satisfy the ITA's rigid information requirements (62 FR 6189 1997). A NME firm can produce documented evidence that it operates under market influences, determines all input purchase decisions, determines volume and type of production, determines prices based on the forces of supply and demand, negotiates all prices at arms-length, has no restrictions on its use of revenues and profits, and has exclusive control over its bank accounts yet be denied market treatment. A NME firm can show that the government exercises no control over the price of inputs, does not restrict foreign currency use, and does not control firm bank accounts, yet still not qualify as a MOI (62 FR 6189 1997). The ITA routinely disregards the type of information supplied by NME firms, saying it is not verifiable, is inadequate in some respect, or that it is not submitted in a timely enough manner. Disregarding information that might prove their beliefs about NMEs are incorrect is one of the predictions of belief based theories.

MOI information is required for the entire industry or virtually the entire industry in a case. This means that if a firm is accused of dumping, it must provide information regarding the entire industry of which it is a part in order to be considered for MOI treatment. It does not matter if the other firms in the industry do not produce goods for

export. All firms within an industry have to submit information in order for the firm or firms involved in an anti-dumping case to be considered for MOI treatment (61 FR 58514 1996). All of this information must be submitted at the beginning of a case. If the information is submitted past the deadlines, the information is disregarded (62 FR 41355 1997). As previously mentioned, these time deadlines are quite short, and it is difficult to persuade firms that are not even involved in the anti-dumping case to submit confidential financial information. The information process is time consuming and costly, and there is no incentive for firms to voluntarily submit proprietary information. In practice, the information requirements are impossible to attain.

Non-market economy firms trying to obtain MOI treatment have contended that the third component of the MOI test requires that the industry under investigation be more market-oriented than current market economies. It requires that all significant inputs, and inputs of inputs be purchased at completely market-driven prices. In *Tapered Roller Bearings from China*, the Chinese firm argued:

> To prove an industry in the PRC is market oriented would require proof negating the existence of any state influence over any factor of production throughout all segments of an industry, potentially involving hundreds of business units...such a task would be virtually impossible to achieve...(62 FR 6189 1997)

The petitioner in *Oscillating and Ceiling Fans From the People's Republic of China (1991)* contended that if many industries in "market economies" in past unfair trade cases were held to MOI standards, these industries would be relabeled non-market economies (56 FR 55274 1991). Even some industries in market economies use inputs supplied by government owned industries at fixed prices (53 FR 30385 1988; 54 FR

43440 1990; 57 FR 8800 1992). Such a practice would immediately disqualify a firm in a non-market economy from MOI treatment.

For example, in the United States prices for electricity inputs are regulated by the Federal Energy Regulatory Commission. Such government intervention in the energy market would disqualify NME firms for MOI treatment. In an interview an ITA analyst acknowledged that many U.S. industries would not qualify as MOIs if they were held up to this test. The excessively rigorous application of the third criterion of the MOI test and the assumptions made about the macroeconomic environment of a NME will exclude any industry in a NME from receiving this classification (56 FR 55274 1991).[71] Yet another analyst summarized the trade deterring effects of Part III of the MOI test by saying "this is the reason why the MOI test is not a test, it is a wall."[72]

The case of *Freshwater Crawfish Tail Meat from the People's Republic of China (1997)* illustrates how beliefs affect the interpretation of MOI treatment in non-market economy cases (62 FR 41355 1997). This case was relatively simple. There were few factor inputs in the production of crawfish meat: crawfish, labor, bags and boxes for packaging and shipping the meat, and electricity and water in the factory in which the crawfish meat was processed. The Chinese firms provided documented information to prove their MOI claims showing:

1. the government did not control the price of labor;
2. the cost of crawfish was freely negotiated between buyers and sellers;
3. there were multiple suppliers of crawfish who priced competitively to sell;
4. labor costs varied by factory and were freely negotiated;

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[71] Discussion with Analyst in Countervailing Duty Investigations, at the International Trade Administration, U.S. Department of Commerce, May 27, 1993.

[72] Discussion with Analyst in Import Investigation, at the International Trade Administration, U.S. Department of Commerce, Washington, D.C. 1993.

5. the government did not control the price of utilities, and even if it did the U.S. government regulates the price of utilities (electricity) so this should not negate MOI status (62 FR 41355 1997).

The only thing that the government did own was the land on which the crawfish were harvested. This is because private fishermen go to public water and fish for crawfish, and then take the catch and sell it to factories. This is similar to crawfish fishermen in the United States, who harvest from public land and do not pay for this privilege. So there is comparability between U.S. and Chinese fishermen's use of public land. In essence, there was no evidence that any part of the crawfish industry was controlled or influenced by the government in China.

The ITA conducted an on-site verification of the information provided by the Chinese firms and found no discrepancies in the accounting ledgers for any of the factor inputs (U.S. International Trade Administration 1997c). This means that the ITA could find no evidence that the Chinese firms were not being honest in the reporting of their operations. The crawfish industry was the most likely case to find a MOI. It was made up of small, mom and pop firms that had sprung up since the economic transitions in China. Therefore, there was no government involvement and has never been government involvement in this industry (Sheldon and Mark 1992).

The ITA rejected the MOI request arguing that "insufficient evidence was on the record to make such a [MOI] determination" (U.S. International Trade Administration 1997a). The ITA contended that while the crawfish firms involved in the case had supplied information on all the factors of production, they missed some of crawfish firms. Therefore the Chinese firms did not provide information on the *entire industry*. The crawfish industry responded that it was a mom and pop industry. Many single person

fishermen do not have sophisticated accounting systems or records in order to satisfy the ITA's information requirements. Moreover, there are too many individual fishermen and processors from which to gather information. Their claims were denied. When I discussed this particular case with a top official at the ITA, he acknowledged that in this case if the ITA wanted to declare Chinese firms market-oriented industries, there was overwhelming evidence to do so. However, they found reasons to reject the claim because *the ITA is not currently prepared to find a MOI.* [73]

This is compelling evidence for the causal role of beliefs. This is a case in which the very decision-makers involved acknowledge the overwhelming material evidence that the NME industries are in fact market determined. The decision-makers acknowledge that their administration of the case is circumventing the formal rules. Nonetheless, the decision-makers are able to rationalize their continued discriminatory treatment of NMEs because they believe that there is still something different about NMEs that they can't quite put their fingers on. The decision-makers believe that non-market forces are still at work, and that NMEs are not ordinary developing countries. As such NMEs must be treated with more attention and caution than other countries. The empirical evidence is trumped by the lingering Cold War beliefs.

In the Administrative Review of *Chrome Plated Lug Nuts from the People's Republic of China (1996)*, the Chinese firms once again petitioned for MOI consideration. MOI treatment was denied for two reasons: 1) the ITA did not receive information from every producer of lug nuts in China; and 2) the firm did not submit evidence that a significant portion of its suppliers were outside government control (61

[73] Interview with Analyst, Office of Antidumping Investigations, U.S. International Trade Administration,

FR 58514 1996). The firm had repeatedly provided evidence that it was the only producer of lug nuts in China, so there was no information about other producers. This information was routinely ignored by the ITA. Moreover, ITA requests for Chinese government corroboration that the firm was the only producer were problematic because the firm was not affiliated with the government. There was no government evidence of non-involvement to be submitted. "Because the industry is a MOI, there is no government control, and the government cannot certify who is part of that particular industry" (61 FR 58514 1996).

Moreover, the firm submitted information about its suppliers, indicating they were free of state control. This information was verified by the ITA. Not only was the particular supplier free of government control, but the entire industry was also free of government control. This was deemed insufficient. The ITA argued that the evidence was not thorough enough, because there was not compelling proof that the entire industry in which the supplier was embedded was also market oriented. As such, MOI treatment was rejected.

An inability to process new disconfirming information is consistent with an understanding of organizations as disproportionate information processors. If decision-makers were using their preformed beliefs to make determinations, one would expect them to continuously reject disconfirming evidence. One would also expect the decision-maker to legitimize his actions by questioning the veracity, scope, presentation and timing of the information provided. This is precisely the kind of systematic information rejection evidenced by the Department of Commerce.

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at Department of Commerce, Washington, D.C. February 2001.

There have been fewer requests for MOI treatment in the past four years. When asked about this, an analyst at the ITA explained that Chinese firms understand they are not going to get MOI treatment and should not waste their time and energy applying. The analyst referred to it as a "cat and mouse" game; the Chinese now understood the rules of the game.[74] However, Romanian firms were not so savvy and applied for MOI treatment in the recent case of *Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Romania (2000)* (65 FR 5594 2000). The Romanian firms supplied documents verifying: no government involvement in the setting of prices or quantities for seamless pipe; inputs sourced from market economies in hard currency; freely negotiated labor contracts; electricity inputs priced at Western comparable levels; and other energy sources paid for in hard currency at market determined prices. Citing "certain weaknesses in the respondents' requests" and the fact that the Romanian firms only supplied information on 80% of the industry, the ITA rejected the MOI application (U.S. International Trade Administration 2000e). The analyst working on the case admitted that the United States always finds a way to reject a MOI, and Romania really had no possibility of proving its case.

This ruling is particularly interesting because the EU has already reclassified the entire country of Romania for the purposes of anti-dumping law. Romania is a market economy according to the EU for the purposes of anti-dumping regulations. Romania is a member of the WTO as a market economy as well. However, the United States is denying MOI treatment to an industry which would be considered market-oriented if it were in any other developing country.

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[74] Interview with Analyst, Office of Antidumping Investigations, U.S. International Trade Administration,

The U.S. Commerce Department recognizes that governments intervene and regulate certain markets or sectors in many countries treated as market economies. However in market economy investigations, "there is a reasonable presumption that market economy influences predominate over the influence of any sector or market in which there is government intervention or regulation" (57 FR 24018 1992, esp 24021). In contrast, it is assumed that in NMEs, non-market forces permeate the economy (60 FR 22359 1995). "The Department begins with a rebuttable presumption that all companies within a NME country are subject to government control" (U.S. International Trade Administration 1999e). To be treated differently a firm or industry must "*overcome the presumption of state control*" (60 FR 22359 1995, (emphasis added)). The repeated use of the word "presumption" in ITA case law and the reliance on presumptions over evidence affirms the causal role of beliefs in their trade policy decisions.

If transitional economies are always assumed to operate under less than market-determined conditions, then no amount or type of information would prove the existence of a market-oriented industry in a NME. Information that calls this presumption into question is not considered. In 1996 the World Bank issued a report stating that "the establishment of a market economy in China was an objective and undeniable fact. The Chinese Government no longer intervenes in an enterprises' production and management or allocated their products" (China Daily 1999). These kinds of affirmations from international institutions do not appear to change the ITA's behavior. Presumptions about non-market conditions continue to hold.

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at Department of Commerce, Washington, D.C. February 2001.

In sum, material conditions cannot explain the process of trade protection just elucidated. The evidence from chapter 3 combined with this chapter demonstrate that this is not a simple case of the ITA trying to maximize protection for domestic firms. There is a systematic pattern of distrust of NMEs which results in trade protection. Trade protection does not cause hostile beliefs about NMEs. Hostile beliefs about NMEs cause trade protection. The cases discussed are all within the past seven years. All of the cases involve NMEs in the midst of economic and political transitions, not prior to 1991. As such, these examples are addressing trade with economies in transition, not centrally planned economies in the middle of the Cold War.

This discussion of the MOI test strongly supports the assertions in hypothesis #2; beliefs impede the implementation of formal rule change. Formal changes in the laws, such as the adoption of a Market-Oriented Industry Test, are circumvented by presumptions about NMEs. The analysts admit and the case law demonstrates systematic discrimination against NMEs based on beliefs and presumptions about conditions in NMEs. Information supplied by NMEs is questioned and ignored. Extraordinary safeguards in the form of unattainable information requirements are erected. Analysts at the ITA voice their displeasure at having to work on NME cases because they do not like to go to the country during the verification stages. In sum, the interpretation of the law and the legal precedent all point toward a culture of distrust of non-market economies in transition.

Part III: Belief Stickiness and Belief Change

Country reclassifications are interesting examples of both belief stickiness and belief change. Beliefs about the different and threatening nature of non-market economies have made the United States slow to reclassify NMEs as full fledged "market economies." At first, even reclassified countries continued to receive NME treatment in anti-dumping cases. This suggests that as with the MOI case, beliefs about NMEs affected the ability of the ITA to implement formal rule changes. However, there is evidence that United States' beliefs about certain countries are beginning to change. This section will provide a preliminary test of hypothesis #4, namely that the less certainty with which a belief is held, the more readily it should change given changing information and environmental conditions. Through time and repeated iterations, the United States is showing signs of belief change.

Country Reclassifications: From Non-Market to Market Economies

As NMEs liberalize economically and politically they are arguing that they should be reclassified as market economy countries. There is much to be gained politically as well as economically from a reclassification. Economically, most countries believe the size of the dumping margins would shrink if they were reclassified and no longer subjected to the surrogate country method. They also believe reclassification would make it more difficult to prove dumping, thereby decreasing the number of spurious cases filed against them by U.S. firms. So a reclassification is expected to decrease both incidence and intensity of trade protection against NMEs. A reclassification would allow these transitional economies to demonstrate they have a comparative advantage in the

production of some commodities, and fully integrate into the international political economy.

Politically, it would be an affirmation by the international community of the phenomenal transformations that these countries have undergone. It may also serve as an international stamp of approval, encouraging foreign direct investment or other trade benefits. Trade analysts at the ITA admit that NME status is a stigma, and these countries are eager to shed the negative stereotypes surrounding the "non-market economy" label.

Overview of the Regulations

In the 1988 Omnibus Trade and Competitiveness Act (OTCA), Congress for the first time statutorily defined the term "non-market economy country." Up until that point, non-market economy had been defined in terms of a list of NME countries. But given the transitions starting in these countries and the possible need to consider reclassifications sometime in the future, the definition of the term was spelled out. "The term 'non-market economy country' means any foreign country that the administering authority determines does not operate on market principles of cost or pricing structures, so that sales of merchandise in such a country do not reflect the fair value of the merchandise" (See OTCA, Pub. L. 100-418, 1316 (b), 102 Stat. 1107, 1187). Section 771 (18) (B) of the OTCA instructed Commerce to consider several factors when trying to determine if a country should be treated as a non-market economy or reclassified as a market economy, under the law. Subsequent to this Commerce added other factors for consideration. These include:

1. the extent to which the currency of the country is convertible;
2. the extent to which wage rates are determined by free bargaining between labor and management;
3. the extent to which joint ventures or other investments by firms of other foreign countries are permitted;
4. the extent of government ownership or control over the means of production;
5. the extent of government control over the price and output decisions of enterprises; and
6. the degree of centralized government control over the allocation of resources or inputs (51 FR 25085 1986, especially criterion 6; 54 FR 12941 1989).

These criteria are dubious because none are absolute features of so called "market economies," and there is no method to weight the factors. As such, these criteria cannot serve as a test of market orientation, because countries currently classified as "market oriented," such as India, Brazil or Thailand, would fail.[75] The first criterion (currency convertibility) does not prove or disprove the market-orientation of an economy. This is especially the case when the number of "market-oriented" economies with inconvertible currencies is considered. While wage rate controls may distort market signals, on a macroeconomic level the second criterion has been acknowledged as largely insignificant and more a political than an economic consideration.[76] As proof, Poland and the Czech Republic were both reclassified in spite of their wage rate controls. The third criterion is not a sound indicator of market status, as there are many market economies with restricted foreign penetration, and almost all economies have limited foreign investment in specific sectors. The Department of Commerce has stated that the issue of both

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[75] If India, Brazil, or Thailand were subjected to the market economy criteria it is suspect if they would pass. Discussion with Analyst at Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. April 7, 1993.

[76] Discussion with Analyst in Countervailing Duty Investigations of the International Trade Administration, U.S. Department of Commerce, Washington, D.C. May 27, 1993.

currency convertibility and degree of foreign investment are macroeconomic indicators and as such have "little effect on internal market forces" (56 FR 46153 1991).

These economic indicators of "market orientation" are also suspicious because only Communist countries have ever been labeled NMEs. No other developing country has been treated as a non-market economy, in spite of wage controls, or currency inconvertibility, or controls on prices, etc. Moreover, though Yugoslavia had many of these economic features, it was treated as a market economy because it was not directly allied with China or the Soviet Union during the Cold War. So although Yugoslavia was economically speaking a centrally planned economy, it was not treated as such under U.S. or EU anti-dumping law. In sum, the economic criteria weakly mask the political intent of the law.

The ITA is solely responsible for reclassifying non-market economies (19 U.S.C. §1677 (18) (c) (ii)). While the ITA may receive informal input from Congress, the President, or interest groups, it alone renders this decision. "Section 1316 (b) of the 1988 Act implemented a final procedural change of note by exempting the Commerce Department's determination of market and non-market status from judicial review" (Harris 1993, 418). Anti-dumping decisions are normally subject to judicial review, which improves the final oversight of anti-dumping decisions. However, the status change was made above judicial review, giving the ITA an incredible concentration of power over this issue.

> The new NME definition departs radically from prior law by making Commerce's determination whether a country is market or non-market judicially nonreviewable. This special exception from judicial review of a key element in the [less than fair value] LTFV calculation is unprecedented under the dumping law. For the first time, petitioners or

> respondents will be unable to appeal a determination by Commerce that goes to the heart of an antidumping case. The elimination of judicial review may be harmful to either the domestic industry or to an NME respondent. Commerce now has been given virtually unfettered discretion to make such political decisions (Neeley 1989, 549).

In sum, the wording of both the definition of a NME and the criteria for determining eligibility for reclassification is vague. This allows the ITA substantial discretion in determining which countries to reclassify. Moreover, the concentration of decision-making power allows the ITA substantial autonomy in rendering its determinations. The decision-making autonomy combined with discretionary latitude are ideal conditions to encourage lingering Cold War beliefs to affect policy outcomes.

Predicting Reclassifications: Materialist Explanations

If reclassifications were purely a function of material conditions, then those NMEs that were more economically liberal than current U.S. "market oriented" trading partners should themselves be reclassified as market oriented. Moreover, those NMEs that liberalized first should be reclassified first, and so on. Level of economic freedom and measures of market orientation should predict if a country were to be reclassified, and if so what the order of that reclassification would look like. Comparing levels of economic freedom will yield straight material predictions about which countries should be reclassified as market oriented. For example, if the United States treats Indonesia as a market economy and Indonesia is less economically free than Romania, Romania should be reclassified as a market economy. "Non-market" was a label given to Communist countries because of the trade threat posed by their institutional structures. If their

institutional structures are no longer threatening, a material explanation would argue that NMEs would be reclassified. If the Department of Commerce was a near-perfect Bayseian updating organization, its policy changes would closely follow changes in empirical reality.

To get information about the levels of economic freedom in NMEs, I used information from The Heritage Foundation's Index of Economic Freedoms. They measure ten different indicators of economic freedom and take an average across the indicators to minimize the effect of any one factor.[77] This measure allows for a comparison of degree of economic freedom or "market orientation" across countries in any given year. Table 5-9 summarizes the findings for 1995 and 2000.

Looking at 1995, a straight materialist/economic assessment of economic indicators would suggest that most so called "non-market economies" should have already been reclassified as market economies. Not only were countries in Eastern Europe more economically free than some of the U.S.'s trading partners, but China, Russia, Ukraine, and Belarus were also more economically free than India. Since India was classified as a "market economy" in 1995, and according to the measurements of economic freedom India was less market oriented than Russia or China, by extension China and Russia should have been reclassified as market economies.

The rankings in 2000 bear out this assessment as well. China is more economically free than Brazil, Croatia, and Indonesia. Russia and Ukraine are more

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[77] Factors included in the index of economic freedom include: trade policy, fiscal burden, government intervention, monetary policy, foreign investment, banking/finance, wages/prices, property rights, regulations, and black market activities. The freedoms are each ranked on a scale of 1-5 with 1 being the most free and 5 being the least free. The economic freedom index is an average of these figures. See www.heritage.org/index/.

Table 5-9: Index of Economic Freedom

1995			2000		
County	**Score**	**Rank**	**County**	**Score**	**Rank**
Korea	2.15	13	Hong Kong	1.3	1
Czech Rep.	2.2	14	Czech Rep.	2.2	22
France	2.3	16	Estonia	2.2	22
Estonia	2.35	18	Germany	2.2	22
Malaysia	2.4	18	Denmark	2.25	27
Italy	2.5	21	Italy	2.3	28
Spain	2.5	21	Korea	2.4	33
Sweden	2.65	24	Spain	2.4	33
Portugal	2.7	27	Peru	2.45	36
Argentina	2.75	30	France	2.5	37
Slovakia	2.8	31	Hungary	2.55	41
Turkey	2.8	31	Latvia	2.65	44
Mexico	2.85	33	Malaysia	2.7	46
Colombia	2.9	34	Greece	2.75	49
Hungary	3	41	Poland	2.8	53
Pakistan	3.15	52	Philippines	2.85	58
Ecuador	3.2	54	Lithuania	2.9	61
Philippines	3.2	54	Mexico	3	74
Brazil	3.3	59	Slovak	3	74
Poland	3.3	59	Armenia	3.1	84
Russia	3.4	69	Ecuador	3.1	84
Indonesia	3.4	69	Romania	3.3	94
Bulgaria	3.5	74	Bulgaria	3.4	100
Bangladesh	3.6	77	China	3.4	100
Albania	3.6	77	Pakistan	3.4	100
China	3.6	77	Brazil	3.5	110
Romania	3.6	77	Croatia	3.5	110
Belarus	3.7	85	Indonesia	3.5	110
Ukraine	3.7	85	Kyrgyz	3.6	116
India	3.8	89	Ukraine	3.6	116
Nicaragua	4	94	Kazakh	3.7	122
			Russia	3.7	122
			Bangladesh	3.75	126
			India	3.8	127
			Belarus	4.1	145

Note: 1) No 1995 data available for Lativa, Lithuania, and other Soviet Republics

2) Total 161 countries in sample

Source: The Heritage Foundation, *The Index of Economic Freedom*. www.heritage.org/index/

economically free than Bangladesh and India. Estonia and Latvia are more economically free than the Philippines and Greece. Therefore based on straight economic appraisals of the conditions in these so called "non-market economies," a reclassification is overdue. However, the case evidence from the ITA does not bear out these predictions.

Thus far, the United States has reclassified Poland in 1993 (58 FR 44166 1993), Slovakia in 1999 (65 FR 1110 2000; U.S. International Trade Administration 1999a), the Czech Republic in 1999 (65 FR 5599 2000; U.S. International Trade Administration 1999b) and Hungary in 2000 (U.S. International Trade Administration 2000b). The former German Democratic Republic (GDR) was absorbed by Germany, and there was no formal reclassification (61 FR 27049 1996). China (63 FR 72255 1998), Russia (62 FR 31967 1997) and Ukraine (62 FR 61754 1997) have all had their reclassification requests denied. The order of country reclassifications, the timing of reclassifications, and the decision to refuse reclassifications are not consistent with simple materialist predictions. In the following section I will review the predictions about belief stasis and belief change with respect to reclassifications, and demonstrate how a belief based theory helps to reconcile seemingly contradictory actions by the ITA.

Application of the Regulations From the Perspective of Belief Change Theory

The ITA has christened several NMEs "market economies." The process of rendering each reclassification decision demonstrates both belief stasis and the dynamics of belief change. In each of the reclassification cases, the ITA found a reason to both reclassify the country as market oriented yet treat the case as a non-market economy case. This apparent contradiction makes sense if one considers the stickiness of beliefs and the

disjointed nature of belief change together in a common logic. I will examine the GDR, Polish, Czech, and Slovak reclassification decisions, and the failed attempts by Romania, Russia, and Ukraine to be reclassified as evidence of the logic of belief stasis and belief change. A look at each of these precedent setting cases will also demonstrate that belief change is a function of belief certainty, and is therefore somewhat predictable.

Although it was never officially reclassified, the German Democratic Republic was the first country to be renamed a market economy. As soon as West Germany and East Germany united, all the firms in East Germany were automatically "market oriented" (58 FR 37315 1993; 61 FR 27049 1996). When asked about the treatment of the GDR, analysts at the International Trade Administration saw no problem with this immediate change in perception of GDR firms. In fact, they did not even consider it a reclassification.[78] The strong ties that the GDR had with West Germany, and Western beliefs that the GDR was anomalous among the NMEs facilitated a rapid change in perceptions about GDR trade. Suddenly the GDR was market oriented, regardless of its economic institutions.

This treatment of the GDR is not consistent with a strict interest based appraisal of the economic institutions in the GDR, but consistent with a belief based hypothesis. It was easy for the United States to change its beliefs about the GDR because they were held with the least certainty of any NME. Belief change was also facilitated by the unification of the Germanys. German reunification acted as a form of institutional contracting, layering West Germany institutions on East Germany institutions. As such, institutional safeguards combined with weak beliefs about the antagonistic nature of the

GDR resulted in rapid belief change. The United States was willing to suspend disbelief and treat the GDR as a "market economy" even during its transition period. Low initial belief certainty plus very strong institutional safeguards and a history of positive interactions yielded a change in ITA perceptions and actions toward the GDR.

In the 1993 anti-dumping case *Cut-to-Length Carbon Steel Plate from Poland*, the ITA reclassified Poland (58 FR 44166 1993). This was somewhat surprising given that Poland did not meet many of the formal criteria outlined for status change: the currency was not fully convertible; there was extensive state ownership of many enterprises responsible for industrial production; there were price controls on utilities; and the Polish firm involved in the anti-dumping suit was entirely state owned (Herzfeld and Rubin 1992). In spite of these seemingly insurmountable impediments to a status change, Poland was declared a market economy retroactive to January 1, 1992.

It is interesting to note that Poland was reclassified even though it hardly met the criteria. An analyst involved in this reclassification admitted that the decision to reclassify was entirely political and that Poland did not meet the economic criteria.[79] At that time the Czech Republic was more economically free than Poland, but it was passed up for reclassification until 1999. Even in 1995, Estonia, Slovakia, and Hungary were all more "market oriented" than Poland, but again they were not considered for reclassification. The timing of the reclassification is not predicted by level of economic freedom, supporting hypothesis #3 regarding the causal role of beliefs.

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[78] Interviews, U.S. International Trade Administration, at Department of Commerce, Washington, D.C. February 2001.

[79] Interview with Analyst in Office of Policy, International Trade Administration, Department of Commerce, Washington, D.C., Winter 2001.

Moreover, the Polish case helps illuminate hypothesis #4, that countries with which Cold War beliefs were held with lesser certainty will be reclassified first. Poland was one of the countries for which the West held antagonistic beliefs with the least certainty. Poland's refusal to collectivize agriculture, its Solidarity Movement in the 1980s, and Shock Therapy in the 1990s were all signals to the West about the economically and politically deviant nature of Poland.[80] Poland was not a "true Communist believer." Even though Poland was less economically free than Estonia at the time of reclassification, and, even though seven years later it was still less economically free than Estonia and Latvia, the West began to change beliefs about it more readily than the other countries.

The Polish case suggests that belief certainty does impact Western perceptions about the speed and scope of reforms in the NME. Even though the economic reforms in Poland were not as extensive as those of other countries in Central and Eastern Europe, Western perceptions about those reforms were different. Western certainty about the antagonistic nature of institutions in Poland was low. Certainty acts as an information discounter. Higher certainty discounts more information and lower certainty discounts less information. Therefore, as predicted, the United States did not substantially discount new information about Poland, and was able to see Poland for the market economy that it really was.

Institutional affiliations are not decisive explanations for the change in status. At the time, Poland was not a member of NATO. While it concluded Interim European Agreements March 1, 1992, so did Hungary and the Czech Republic and neither of these

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[80] Jeffrey Sachs and David Lipton, the two primary architects of Poland's "Shock Therapy" reform

countries was reclassified until 2000 and 1999 respectively (European Commission 2001a). Poland was a member of the GATT, but it had been a member since 1967, and the Czech Republic was a founding member. Therefore, international institutional affiliations alone are insufficient to explain the change in status (Haus 1991, 164). International institutional safeguards may be necessary, but one needs to think about the way they interact with existing beliefs and perceptions to unravel why NMEs are treated as they are by the West.

In spite of the Polish reclassification, the Polish firm involved in this anti-dumping case was treated as a NME. Even though the country's status was changed retroactively, the Polish firm was still subjected to the surrogate method. The Polish firm took the Department of Commerce to court alleging that its retroactive status change should mean that the surrogate country method was not applicable.[81] The Court sided with the ITA, ruling special trade rules could still be used against former NMEs despite the status change.[82]

This precedent, in which the firms involved in the status change cases are themselves denied market economy treatment, has been repeated in the Czech, Slovak, and Hungarian reclassification cases. This is interesting because it demonstrates the trouble that decision-makers have letting go of old beliefs about NMEs. Even when reclassified as market economies, the decision-makers still took the opportunity to treat the firms as non-market, citing information problems, and time deadlines as reasons.

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program, detail the nature of the reforms in Lipton and Sachs 1990; and Sachs 1993.

[81] See Czestochowa v United States, 890 F. Supp. 1053 (CIT 1995).

[82] Poland is presently involved in its first case since the status change (65 FR 45754 2000). Although Poland is considered a market economy for this case, it remains to be seen how the case will be administered in practice.

This behavior is consistent with theories about belief stasis and belief change. Beliefs are sticky and change in disjointed manners. Therefore tentative belief change in the form of country reclassifications can be coterminous with resistance to actually treating NME firms as market oriented. Each of these actions is logically consistent when viewed as part of the process of belief change. Using this lens, I provide examples from each of the other reclassification cases.

In *Certain Small Diameter Carbon and Steel Alloy Seamless Pipe from the Czech Republic*, the Czech government requested revocation of its non-market economy status in the context of the anti-dumping laws (65 FR 5599 2000). The Czech government and the firms involved in the anti-dumping case submitted documents and information to support their claim. While the ITA was reviewing the information about the Czech status change, it continued with the anti-dumping investigation. It treated the Czech firm accused of dumping as a NME in spite of the eventual retroactive reclassification of the entire country. The Czech government was particularly outraged for several reasons.

First, according to the U.S. definition of a NME, the Czech Republic should have been reclassified years before. By 1999, the Czech currency was convertible, prices had been liberalized and were market determined, tariffs had been reduced, the country was open to foreign direct investment, wages were free of government involvement, and privatization of virtually the entire agricultural, service, and manufacturing sector was in place (U.S. International Trade Administration 1999c, 22-23). The Czech Republic was more economically liberal than Poland, which had already been reclassified. According to the Heritage Foundation's Index (table 5-9), the Czech Republic had less government

intervention in its economy than Germany, Denmark, France and Italy, but was still classified as a NME.

Up until 1999 when the Czech Republic formally requested a status change, the country was presumed to be a NME. There is nothing in the law that requires the ITA to wait until an anti-dumping case is initiated to review NME status (Section 771 (18) B of the Act of 1930). In fact, "the presumption of NME status for the Czech Republic was entirely a creature of the Department's [ITA] practice, and is nowhere required by statute or regulation" (White and Case Law Firm 2000a, 8). But the ITA has chosen to wait until an anti-dumping case arises to consider country reclassifications in all cases thus far.

Second, the Czech republic had already signed Association Agreements with the European Union, and been reclassified by the EU as a market economy. The United States would not recognize this reclassification. This supports the assertion that the EU would more readily change its beliefs than the United States (hypothesis #5). Third, and most important, the Czech Republic was a full member of GATT and the WTO (Haus 1991, 164). Once a country becomes a member of GATT it is not subject to special anti-dumping laws, because it could not possibly qualify for NME treatment.[83] According to the GATT, imports from a country may be treated as a non-market in the case where there is a "*complete or substantially complete monopoly of trade and where all domestic prices are fixed by the State* ..." (Note 2 AD Paragraph 1 of Article VI-Antidumping and Countervailing Duties in Annex I to the GATT 1994).

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[83] This issue was discussed in (White and Case Law Firm 2000a), and confirmed in a personal interview with an Analyst in Anti-Dumping Investigations, International Trade Administration, Department of Commerce, Washington, D.C. Winter 2001.

According to the GATT definition, there is no way the Czech Republic could be classified as a NME. U.S. Court cases have confirmed that whenever possible U.S. law should be interpreted in a manner consistent with international obligations.[84] As such, the United States was in violation of its WTO obligations by starting an anti-dumping case against the Czech Republic using NME standards. WTO obligations required that the United States change the status of the Czech Republic prior to initiating the anti-dumping case. Instead, the ITA treated the Czech firm as a non-market economy for this case, in spite of the eventual reclassification of the entire country (U.S. International Trade Administration 2000g).

Moreover, the ITA knows that it is in violation of its international obligations by treating WTO members using NME criteria, yet it continues to do so. In an interview with a top policy analyst at the ITA, I asked if the ITA was aware that its procedures violated international agreements. The analyst replied, yes, and they would continue to administer these laws in this manner until taken to court.[85]

These cases are interesting for what they reveal about the importance of international institutional affiliations. Institutions literature argues that institutions encourage exchange relations by providing mechanisms for enforcing rules, and by providing more information and certainty to the nature of the exchange relations. Institutions literature does not always consider the role of beliefs in impeding policy change. Institutions are supposed to secure material interests and therefore encourage exchange. But the need to correct ideas or beliefs that are also involved in exchange is

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[84] See Hyundai Electronics Co., Ltd v United States, 55 F. Supp. 2d 1334, 1344 (1999).
[85] Interview at Department of Commerce, Washington, D.C. February 2001.

often overlooked.[86] These examples demonstrate the need to consider the policy impeding potential of beliefs and ideas.

The case of *Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Slovakia* (2000) is similar to the Czech case just described (65 FR 1110 2000). The Slovak Government requested a formal change in status. In an ITA unpublished decision memorandum, it was confirmed that Slovakia had enacted extensive economic and political reforms meriting a change in status. In the same memo, the ITA even cited Slovakia's founding membership in the GATT, its subsequent membership in the WTO in 1995, and its associations with the EU and OECD as reasons why Slovakia's status should be changed (U.S. International Trade Administration 1999a, 20). However, the ITA still treated the Slovak firm involved in the case as non-market, and even used Best Information Available in determining the dumping margin (U.S. International Trade Administration 2000h). Using BIA and the surrogate method for determining "fair value" results in the highest possible level of trade protection.

In the end Slovakia was reclassified. However, based on pure economic considerations Slovakia should have been reclassified after Lithuania, Latvia, and Estonia. Each of the Baltic countries has enacted more economic reforms than Slovakia, and achieved a measure of market orientation still not reached by Slovakia in 2000. In fact, according to considerations of both economic and political freedoms as measured by Freedom House in 2000, Slovakia was less free than Lithuania, Estonia and Latvia.[87]

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[86] Douglass North's work on informal and formal institutional constraints and Margaret Levi's work on norms of fairness are notable exceptions (Levi 1997; North 1990).

[87] On a scale of 2-14 of a combined index of economic and political freedoms, with 2 being the most free and 14 being the least free, the countries rank as follows: Lithuania 4.08, Estonia 4.56, Latvia, 4.89, and

According to calculations of both political and economic institutional change, Slovakia should not have been reclassified before the Baltics. However, given the combination of interests and incentives used in assessing the strength of Western beliefs, one would have predicted that Slovakia would be reclassified before the Baltics. United States Cold War based beliefs about Slovakia were held with less certainty than beliefs about the Baltics, therefore it was easier for the United States to reclassify Slovakia than the Baltics. A belief based theory predicts that deviant satellite countries will be reclassified before deviant core countries, and this is what we have seen happen in the U.S. case.

The apparent contradictory treatment of the Czech Republic, Slovakia, and Poland is entirely consistent when one considers the logic of belief stasis and belief change. Beliefs are sticky. They resist change. When change does occur it is in disjointed, punctuated steps. The ITA was able to process objective economic information and reclassify the countries. In making the reclassification the ITA was presented with overwhelming evidence of economic reform in these countries. The overwhelming evidence necessitated an official change in the law (Larson 1985, 16). However, the change in the law was not necessarily sufficient to change completely the lingering beliefs. Beliefs take time to change. The ITA is clearly involved in the dynamic process of belief change involving policy fits and starts. Reclassifications are indicators that beliefs are changing, not one shot indicators that beliefs have changed. This disjointed process of change may appear contradictory, but simply reflects the resistance of lodged beliefs to deliberate change.

Slovakia, 5.75. See Freedom House, *Nations in Transit, Country Reports 2000.* www.freedomhouse.org/research/nitransit.

Not enough time has passed to ascertain if the Czech Republic, Slovakia and Hungary will be treated as "market economies" in future anti-dumping cases.[88] But, the case of Poland provides cause for optimism. Poland has been used as a "market economy" surrogate for other NMEs in anti-dumping cases in recent years, suggesting that Western beliefs and perceptions about Poland are changing (63 FR 13031 1998; 65 FR 68121 2000). Moreover, Poland is currently involved in an anti-dumping case in which it is preliminarily being treated as a market economy (65 FR 45754 2000). The treatment of Poland supports the theory about the process of belief change being disjointed instead of incremental. Although Poland was reclassified in 1993, it has taken time and iterated trade exchanges between Poland and the United States to change the way the U.S. administers its laws. The outlook is positive for Hungary, the Czech Republic and Slovakia but not so rosy for the other NMEs.

Romania was involved in an anti-dumping case in 1999-2000 in which it was treated as a NME. When I asked analysts at the International Trade Administration why Romania was not reclassified they asked "Do you think Romania is a market economy?"[89] The surrogates used in the case were Egypt and Indonesia. Romania scored higher than both countries on degree of economic freedom, according to the

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[88] The Hungarian reclassification was not effected in tandem with the initiation of an anti-dumping case. So it is not possible to discern how the ITA will treat Hungary in future cases. However, Hungary was reclassified in February 2000. In a Sunset Review in 1999, *Tapered Roller Bearings from Hungary*, the Department continued to treat Hungary as a NME. It even argued the "the economic conditions in Hungary are not "normal" conditions since the Hungarian economy is in the process of changing from a state-run economy to a free market economy" (64 FR 213 1999). Therefore NME rules would remain in place for the calculation of the dumping margins. This is interesting because in 1999 when this decision was made Hungary had a more unfettered economic system than Mexico, Brazil, Greece, and India (See The Heritage Foundation, *Index of Economic Freedom*. www.heritage.org/index/.)

[89] Interviews at International Trade Administration, Department of Commerce, Washington, D.C., Winter 2001.

Heritage Foundation.[90] Romania was more economically liberal than the surrogates used in its case. But the empirical reality of reforms in Romania is affected by lingering perceptions about Romania as a NME. The analysts at the Department of Commerce assume that in a NME "the government controls everything."[91] Even though the assumptions about the economic nature of NMEs in transition are inconsistent with reality, the beliefs about them remain sticky. Enduring beliefs about non-market economies result in an inability of trade agencies to process new contradictory information.

Both Russia and Ukraine have been denied status changes. According to the GATT/WTO definition of a non-market economy, neither Russia nor Ukraine qualifies. The GATT changed Ukraine's status from a NME to a "country in transition" in 1994, acknowledging the extent of the economic and political reforms in the country (General Agreement on Tariffs and Trade 1994). In a "Joint Statement on Expansion of Trade and Investments" signed between Ukraine and the U.S. Government in 1994, even the United States officially recognized Ukraine as a country in transition (U.S. International Trade Administration 1997b). However, this does not translate into a status change for the purpose of trade laws.

The status change is an interesting example of why institutional safeguards are necessary but not sufficient conditions to change the treatment of NMEs. Many countries currently considered NMEs by the United States are members of the WTO, including

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[90] On a scale of 1-5 with 1 being the most free and 5 being the least economically free, Romania scored 3.3, Indonesia scored 3.5, and Egypt scored 3.5. This meant Romania was ranked 94th of 161 in terms of economic freedoms, and Indonesia and Egypt ranked 110th. The Heritage Foundation, 2000. *The Index of Economic Freedom*. www.heritage.org/index/.

Albania (joined in 2000), Bulgaria (1996), Estonia (1999), Georgia (2000), Latvia (1999), Kyrgyzstan (1998), and Romania (1995).[92] International affiliations have not by themselves changed beliefs about these countries. Institutions are necessary but not sufficient conditions to effect belief change. Institutional safeguards alone cannot change beliefs.

The Department of Commerce is aware that its continued treatment of GATT/WTO members as non-market economies is in violation of the terms of the agreement. In an internal memorandum regarding the case of *Uranium from the Russian Federation (2000)*, the Department defiantly argued "United States law not the WTO controls the Department's conduct of this review" (U.S. International Trade Administration 2000f). Knowing that WTO membership might force the ITA to treat China as a market economy, part of the agreement negotiated between China and the United States and the European Union required China to forsake a change in its status for 15 years (White and Case Law Firm 2000a).[93] The United States and European Union both want to retain their ability to treat China as a non-market economy well into the future.

This is entirely consistent with a theory about the nature of belief change. The U.S. held beliefs about the threatening interests and incentives of orthodox core NME with the most certainty. Given that China was a member of this group, one would predict that beliefs about the interests and intentions of China would be most resistant to

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[91] Interviews at International Trade Administration, Department of Commerce, Washington, D.C., Winter 2001.

[92] See the World Trade Organization's website for membership information. www.wto.org.

[93] Information also confirmed in interviews at International Trade Administration, Department of Commerce, Washington, D.C., Winter 2001.

improvement. As predicted, one would not expect beliefs about Russia and Ukraine to change before U.S. beliefs about the Baltics or Balkans. Western beliefs about these countries should be the slowest to change because these beliefs act as the strongest information discounters.

The United States does not provide a lot of variation in terms of countries that have been reclassified or about which the U.S. has evidenced belief change. The United States' beliefs have been largely resistant to change. Although the U.S. is beginning to treat deviant satellite countries more favorably, it has not changed the way it views orthodox satellites, or deviant core countries. The European Union will provide an interesting case comparison because it has substantial more variation in terms of country reclassification and, therefore, belief change.

Even though the United States does not provide substantial variation in terms of country reclassifications to test a theory of belief change, its behavior is still instructive. The second test of a theory of belief change is to compare the treatment of NMEs by the European Union and the United States. If belief certainty affects the speed of belief change, one would expect European treatment of Eastern Europe to look different from United States' treatment of Eastern European NMEs. The U.S. held beliefs about NMEs with more certainty than the EU. Therefore the EU's behavior toward NMEs should look much more lenient and accommodating than that evidenced by the United States. While the U.S. is only starting to change its beliefs about deviant satellites, one would predict that the EU would have started to change its beliefs about other categories of countries as well. The EU might have even started to change the way it treats orthodox satellites and

deviant core countries. The comparison of U.S. and EU policies toward NMEs will serve as a second test of a theory of belief change based on degree of belief certainty.

Conclusion

This chapter has demonstrated three main things: first, beliefs matter; second, beliefs can persevere even when formal rules and institutions change; and third, there is an internal logic to belief change based on belief certainty and the disjointed nature of belief change. I have demonstrated that material conditions alone cannot explain why the Department of Commerce continues to discriminate against NMEs, nor can it predict the order with which U.S. beliefs will change (hypothesis #3). This evidence could have refuted a belief based hypothesis. Instead it proves that a hypothesis that beliefs matter can hold up to empirical testing. I will recap each of these three main findings in turn.

First, this chapter has demonstrated that Cold War beliefs about NMEs affect current U.S. trade policy (hypothesis #1). I have shown that material conditions alone cannot predict the treatment of NMEs under U.S. anti-dumping laws (hypothesis #3). At present, NMEs are no different economically from other developing countries. Yet they continue to be treated differently, and are subjected to unusual safeguards to trade. In this chapter I have demonstrated how the interpretation of the surrogate country method sets impossible standards for NMEs. Extraordinary information requirements and short time deadlines pose insurmountable trade safeguards against NMEs. The selection of surrogates, the use of multiple surrogates, and the propensity to change surrogates once a case has started all introduce substantial discretion into the ITA's dumping

determinations. Because this discretion is infused with distrust of NME interests and incentives, the outcomes are particularly onerous for NME exporters.

Second, I have demonstrated that beliefs about the inherently harmful nature of trade with NMEs can stymie the implementation of formal rule changes (hypothesis #2). I outlined how the two major changes to the anti-dumping law have been circumvented by the Department of Commerce. The Market-Oriented Industry test was developed ten years ago to improve the treatment of transitional economies, yet no firm in a NME has been able to avail itself of its beneficial treatment. Even countries reclassified as market economies were still treated as NMEs. In both examples, the Department of Commerce self-initiated formal changes to the law, but both the process of administering the laws and the outcomes did not change. In effect, formal rule changes can be circumvented by lingering ideational constraints.

Third, by examining the internal logic of belief change one can reconcile seemingly contradictory patterns in U.S. trade policy toward NMEs. Beliefs are sticky, however they do change. Understanding the role of belief certainty in predicting the dynamic of belief change will help to reconcile this seeming contradiction. For example, which NMEs are awarded a "market oriented" reclassification is consistent with a theory about belief change. Countries against which the United States held hostile beliefs with the least certainty are reclassified first, and countries against which the United States held hostile beliefs with the most certainty still face the highest impediments to change (hypothesis #4). However this incremental change in treatment does not result in a wholesale embrace of former NMEs. Certain aspects of the treatment of NMEs may change without eradicating the former beliefs entirely.

Beliefs change in punctuated steps, and the "official" reclassification is only one of the steps. Failure to change perceptions of NMEs to fit with empirical reality is consistent with belief perseverance theory. A NME may be reclassified, but it takes a while for the Department of Commerce to change previously held beliefs about the NME. The *presumption* of non-market activity lingers in these countries. This presumption is spelled out in trade cases, is included in the wording of the law, and comes out in interviews with trade analysts. The ITA engages in "disproportionate information processing" thereby perpetuating the stickiness of Cold War beliefs. Both the nature of beliefs and their dynamic of change remain logically consistent when one considers the mechanism of belief perpetuation and the role of belief certainty in predicting change.

To answer the question posed in chapter 1, are NMEs still enemies? According to the treatment of non-market economies over the past ten years, the answer is yes. According to the analysts at the Department of Commerce who cite "unspecified" irregularities in NMEs as a reason for their extra vigilance, the answer is yes. The Department of Commerce continues to perceive that NMEs are threatening and must be watched with caution. NMEs are largely still perceived to be the enemies. As long as this perception about NMEs holds true, it will be difficult (but not impossible) for formal rule changes to be translated into outcome changes.

Chapter 6: The European Commission and Non-Market Economy Trade in the Post-Cold War Period

> The anti-dumping rules [against NMEs] teach the capitalists to behave like socialists, not the other way around.
> ---(Finger 1993, 54).

> I too often have the impression that there are some states, China for instance, which are unpopular here, so that things are applied to them that are not applied to others.
> ---EU Official, in oral comments before the European Parliament (*European Foreign Policy Bulletin* 1997).

Introduction

The European Union initiates an unusual number of anti-dumping cases against imports from non-market economies. Figure 6-1 shows the distribution of anti-dumping cases initiated against NMEs between 1980-2000. Over this 20 year time period, 300 anti-dumping cases were initiated against imports from NMEs or former NMEs.[94] This is an average of approximately 40% of European anti-dumping cases. The figures in chapter 1 (figures 1-4 and 1-8), demonstrated that this number is high in both relative and absolute terms.

The imports have not been in a single commodity group. NMEs export a variety of products to the European Union, including low value-added products such as lumber and minerals, medium value-added products such as leather purses and iron pipe, and high value-added products such as color TVs and microwave ovens. Figure 6-2 presents

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[94] Note, prior to the dissolution of the USSR in 1991, each anti-dumping case against the USSR was counted as 1 case (not 15 cases or 1 for each republic). After the breakup in 1991, anti-dumping cases are counted against each country involved in a case. This is in keeping with the accounting used by the European Commission in tabulating anti-dumping cases.

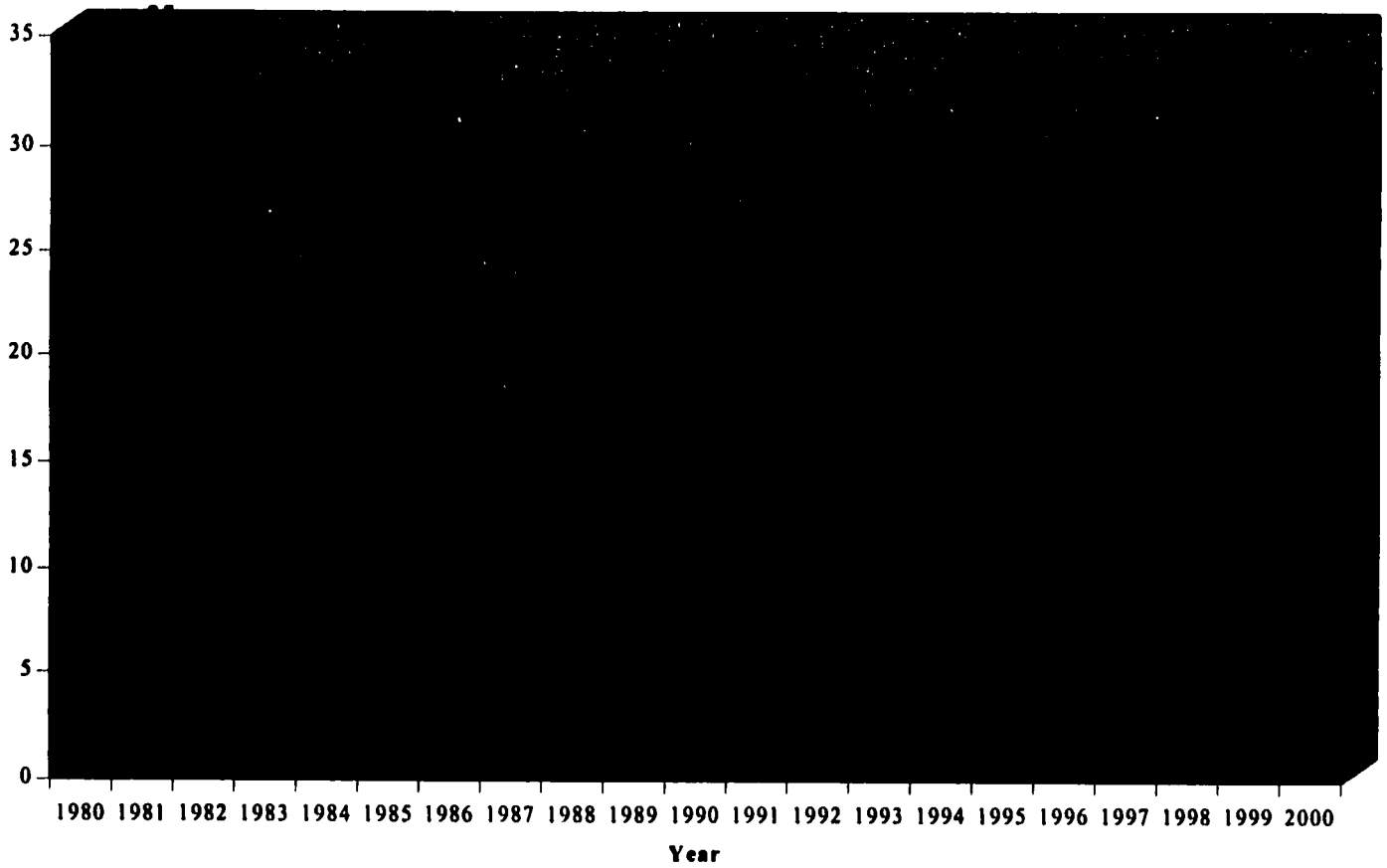

Figure 6-1: Total Number of EU Anti-dumping Cases Initiated Against Non-market Economies per Year
Sources: European Commission, various years. *Annual Report from the Commission to the European Parliament on the Community's Anti-Dumping and Anti-Subsidy Activities*. Brussels: The European Commission.

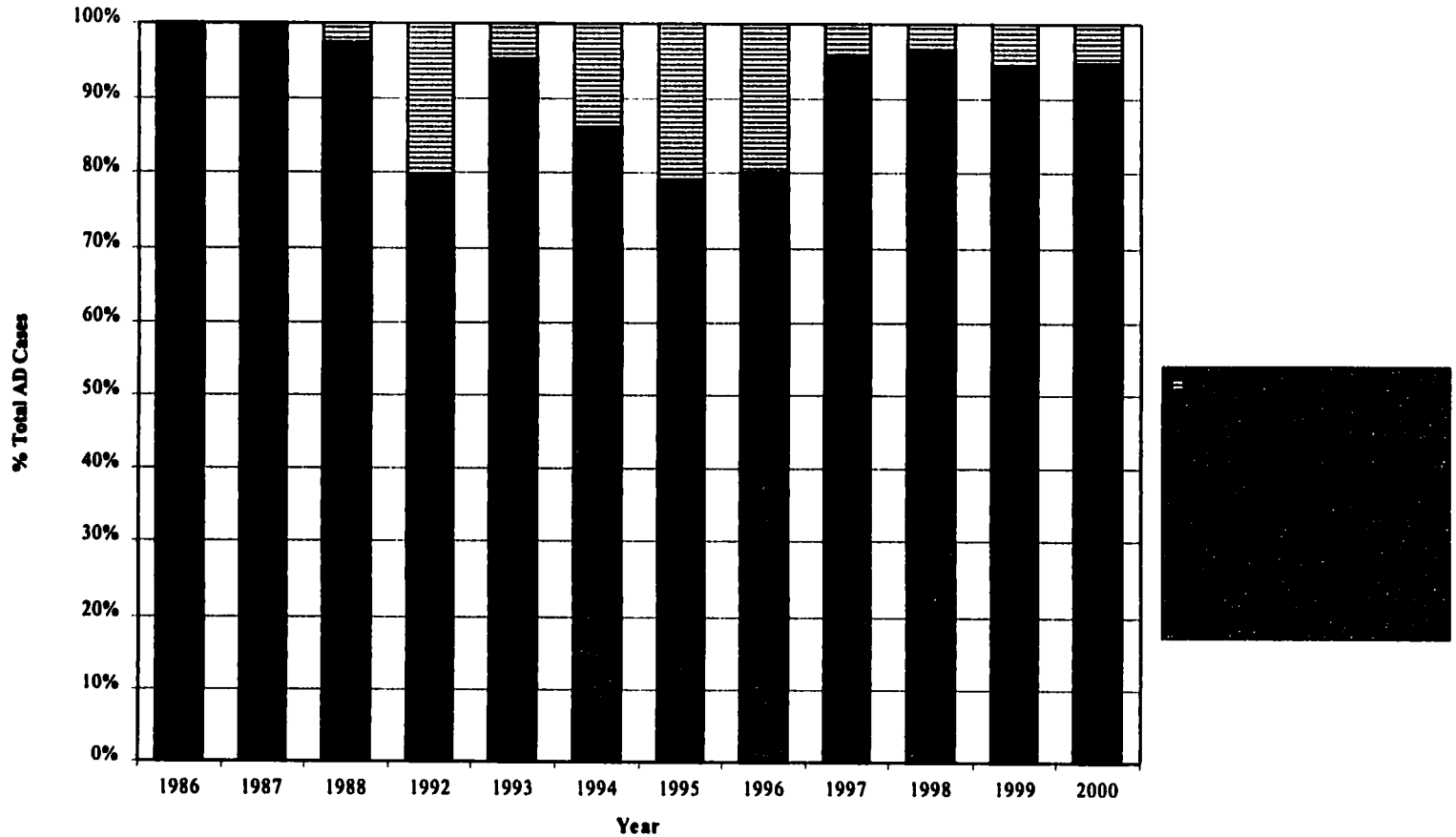

Figure 6-2: EU Anti-dumping Cases Initiated by Sector

Sources: The European Commission, various years. *Annual Report from the Commission to the European Parliament on the Community's Anti-Dumping and Anti-Subsidy Activities*. Brussels: The European Commission.

a sectoral breakdown of all anti-dumping cases over a twelve year period, including years prior to and after the end of the Cold War. Figure 6-3 looks only at the sectoral distribution of anti-dumping cases against non-market economies over this twelve year period. A comparison of the two figures shows that the sectoral composition of NME trade is not unusual, and certainly not different enough from the general EU sectoral distribution of trade to explain the unusual pattern of trade protection against NMEs. This finding corresponds with the statistical analysis of U.S. anti-dumping cases in chapter 3.

Table 6-1 provides some additional evidence of the similar commodity composition of NME cases and other country cases. NMEs and other developing countries are often investigated together in the same anti-dumping case at the same time, against the same EU domestic industries.[95] As the table shows, NMEs almost always end up with the highest levels of trade protection, holding other factors constant. These figures and tables suggest that NMEs are not unusual in their export compositions or volumes to the EU. What then explains the high incidence and level of EU trade protection against them?

This chapter will attempt to explain how the structure and interpretation of the European Union's anti-dumping laws encourage disproportionate amounts of trade

[95] As per the explanation of cumulation in chapter 4, anti-dumping cases can be initiated against a single exporter in one country, or multiple exporters in multiple countries. All of the exporters and countries are grouped under the same umbrella anti-dumping case, but each is assessed a separate anti-dumping margin. Therefore, it is possible to compare the dumping margins assessed to different countries in the same case because international conditions, domestic interest groups, timing, and bureaucratic administration are all kept constant.

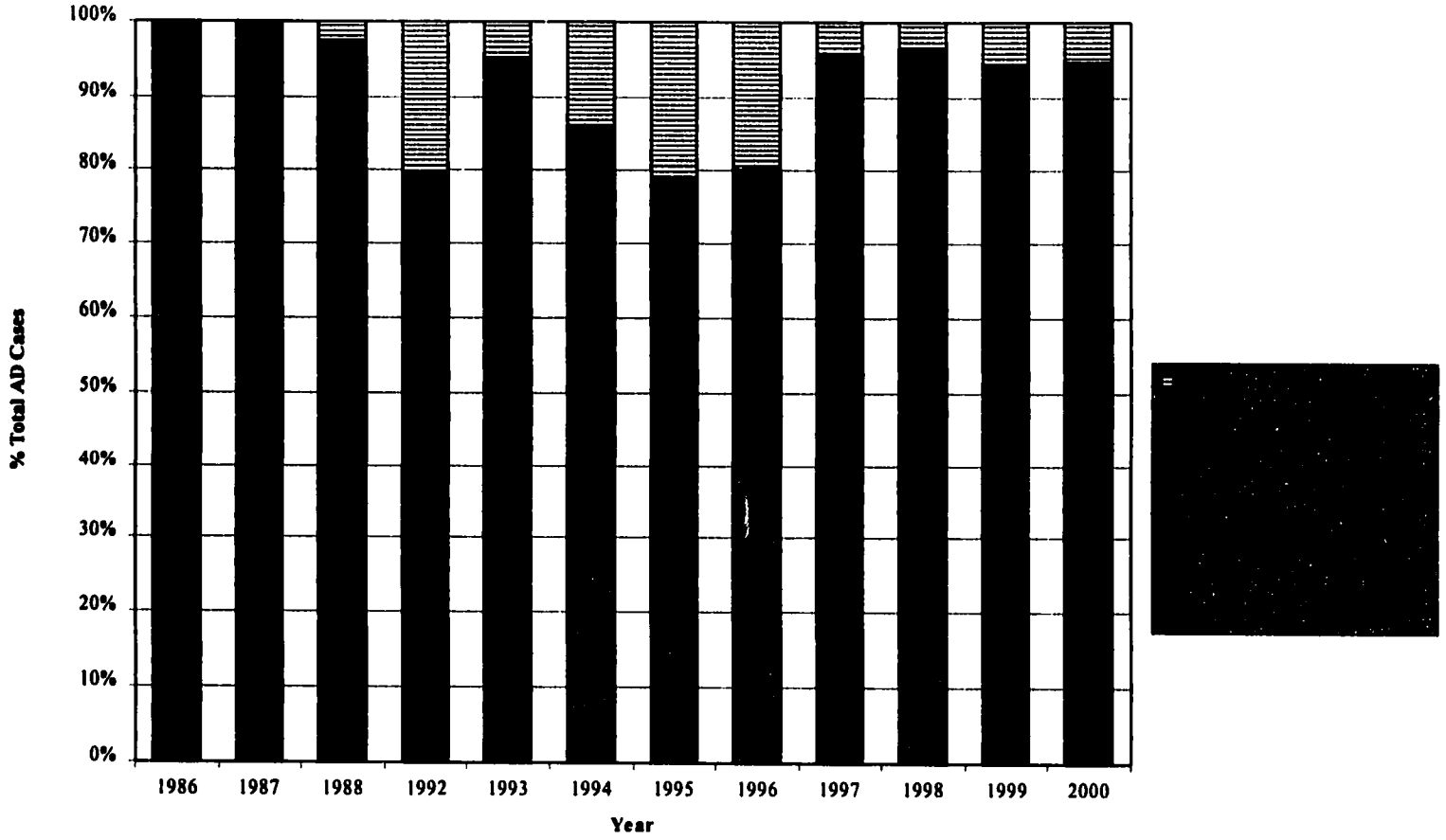

Figure 6-2: EU Anti-dumping Cases Initiated by Sector

Sources: The European Commission, various years. *Annual Report from the Commission to the European Parliament on the Community's Anti-Dumping and Anti-Subsidy Activities*. Brussels: The European Commission.

Table 6-1: Comparison of Different Countries and Same Case

Non-Market Economies and Big Emerging Markets			
Product/Case	**Year**	**Country**	**Dumping Margin**
steel wire rope and cable	1999	China	60.1%
		Hungary	47.3%
		India	40.1-41.2%
		Korea	0.0%
		Mexico	31.9%
		Poland	38.7-43.7%
		South Africa	21.6%
		Ukraine	54.0%
hardboard	1999	Lithuania	11.4%
		Poland	11-34.8%
		Russia	30.6%
		Brazil	0.00%
footwear	1998	China	46.00%
		Indonesia	0-20%
		Thailiand	0-24%
potassium permanganate	1998	Ukraine	36.20%
		India	5.60%
fax machines	1998	China	18.50%
		Singapore	0.00%
		Taiwan	4.50%
steel fasteners	1998	China	78.00%
		Malaysia	7.00%
		Taiwan	23.10%
		Thailand	8.40%
ring binders	1997	China	39.40%
		Malaysia	10.50%
unbleached cotton	1996	China	22.60%
		India	15.90%
		Pakistan	27.80%
		Indonesia	13.10%
Ferro-silico-manganese	1995	Russia	57.4%
		Ukraine	52.8%
		Brazil	40.6%

Source: EC Com Documents, various years.

protection against NMEs and former NMEs. Mirroring the analysis of the U.S. case in chapter 5, this chapter will flesh out the origin, effects, and policy changes related to beliefs about the interests and incentives of NMEs, as developed during the Cold War. Not only did the United States harbor beliefs about the threatening and antagonistic nature of NMEs based on an evaluation of NME incentives and interests, but the Europeans did also. These beliefs have become institutionalized in the anti-dumping laws, and continue to affect the implementation of trade laws in the post-Cold War period. Because my analysis focuses on the process of administering the trade cases not trade case outcomes, I will concentrate on the role of the European Commission and its administration of NME anti-dumping laws.

In this chapter I test the series of hypotheses generated in chapter 2 (hypotheses 1-5). I compare the empirical predictions generated by material conditions and pure interest based accounts of the Commission's treatment of NMEs to the predictions generated by belief based hypotheses. I show why material conditions cannot predict or explain the Commission's use of anti-dumping laws against NMEs, and how examining the role of beliefs helps to make sense of the Commission's seemingly contradictory treatment of non-market economies. Specifically, I demonstrate how beliefs have impeded the implementation of two major rule changes to the anti-dumping laws effected by the EU in the post-Cold War period. I also examine whether the dynamic of belief change follows the logic spelled out in chapter 2, using country reclassifications as a test.

The European Union is an interesting contrast case to the United States. One would predict that the EU should have less belief rigidity than the United States because it held beliefs about the NMEs in general with less certainty than the United States

(hypothesis #5). EU held beliefs should change before U.S. held beliefs, if theories related to the effects of beliefs on trade policy hold true. By comparing the EU case to the United States case I am able to demonstrate that beliefs are not simply epiphenomenal; they are not simply a function of the bureaucracy holding the belief. Comparing the European Union and United States' treatment of NMEs, I am also able to provide more variation on the dependent variable--belief certainty. This allows for a more robust treatment of the differing effects of beliefs on trade policy, by providing a second test of predictions about the nature of belief change.

Part I: Belief Origin and Institutionalization

Historical Background: Special Trade Rules for Non-Market Economies

The Analogue Country Method

While the EU began applying different anti-dumping trade rules to non-market economies than to other countries in the 1950s, it was not until 1979 that the EU codified these procedures as the analogue country method (European Commission 1997, 3). An "analogue country" is the European equivalent of the U.S. "surrogate country," namely a third country price proxy for non-market economies. In 1982, the EEC set out *Common Rules for Imports from State-Trading Countries*, in which it outlined the different trading rules for non-market economies (Council Reg No. 1765/82 1982).[96] The document specified that Bulgaria, Hungary, Poland, Romania, Czechoslovakia, the German Democratic Republic (GDR), the USSR, Vietnam, North Korea, and Mongolia should be

[96] The EEC also drafted *Common Rules for Imports*, in which it outlined generally the procedures for protecting EEC industries from injurious trade and specified which areas and what sectors were eligible for protective assistance (Council Reg No. 288/82 1982). However these regular anti-dumping rules have never applied to non-market economies.

treated as non-market economies and special anti-dumping rules applied to them (Council Reg No. 1765/82 1982, Annex). A companion regulation was drafted for China, mirroring the main document and applying the same special NME rules to China (Council Reg No. 1766/82 1982).

The idea behind the special trade rules for NMEs was the same as the principle behind U.S. trade remedy laws. Non-market economies were assumed to pose an extraordinary trade threat due to the structure of their domestic economic and political institutions and their hostile interests toward the West. Therefore, special extraordinary rules had to be established to safeguard European industries from unfair trade with NMEs.

> Whereas... by reason of the economic system of state-trading countries (or China in 1766/82), it is necessary that member states should notify the Commission when the trend in imports, or the conditions in which imports are made, appear to call for protective measures and that they should in particular advise it of any application for documents for the importation of a product in notably increase quantities or on exceptional terms or conditions, and that they should do so before such documents are issued... (Council Reg No. 1765/82 1982, Article 9 (2)).

The original 1982 Council Regulations have been amended and modified, but have remained consistent in their interpretation of the need to address trade with non-market economies as a special case. In 1994-1995, the regulations were updated, taking into account changes in the make-up of the Soviet Union and reforms throughout Eastern Europe (Council Reg No. 519/94 1994).[97] In 1996, amendments were also made to the Basic Anti-dumping Regulation, in order to align it with the Agreement on Implementation of Article VI of the GATT 1994, and to improve the transparency and

fairness of the rules (Council Reg No. 384/96 1996). According to these updated regulations, the normal value of a NME shall be calculated using the analogue country method as follows:

> When determining normal value for non-market economy countries, it appears prudent to set out rules for choosing the appropriate market-economy third country that is to be used for such purpose and, where it is not possible to find a suitable third country, to provide that normal value may be established on any other reasonable basis... In the case of imports from non-market economy countries and, in particular, those to which Council Regulation (EC) No. 384/96 (5) applies, normal value shall be determined on the basis of the price or constructed value in a market economy third country to other countries, including the Community, or where those are not possible, on any other reasonable basis, including the price actually paid or payable in the Community for the like product, duly adjusted if necessary to include a reasonable profit margin. An appropriate market economy third country shall be selected in a not unreasonable manner, due account being taken of any reliable information made available at the time of selection. Account shall also be taken of time limits; where appropriate, a market economy third country which is subject to the same investigation shall be used (Council Reg No. 384/96 1996, Article 2(7)).

An analogue refers to a third country which is chosen as a price proxy for the non-market economy in an anti-dumping investigation. The EU uses the analogue country to determine the normal value of NME imports. Instead of valuing each of the factor inputs in a third country and adding them together to arrive at a surrogate price as the U.S. does, the EU uses the price of commodity x in a third country as a substitute for the price of commodity x in a NME. As chapter 4 explained, there are four possible ways of using

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[97] Amendments to EEC No. 1765/82 and 1766/82 include: EEC No. 1243/86, EEC No. 1434/90, EEC No. 3859/91, EC No. 519/94 (combining China and other non-market economies under one statute), and EEC No. 848/92 (dividing up the USSR into its constitutive republics).

analogue prices to arrive at a NME "normal value" for an anti-dumping case, but the EU prefers the actual price of like products sold in the analogue country.[98]

To illustrate the application of the analogue country method, some examples might be helpful. In a case involving ice skates from Hungary, Czechoslovakia, and Romania, the prices of Yugoslav producers of ice skates were used as proxies to calculate dumping margins against Hungarian, Czechoslovakian, and Romanian ice skate producers (Commission Decision 1985).[99] Yugoslav producers were involved in the same anti-dumping case, so the information they supplied to the Commission was also applied to the NMEs under investigation. More recently, Brazil was used as an analogue to determine prices in an anti-dumping case against Ukrainian silicon carbide producers (Council Reg No. 1786/97 1997), and India was used as an analogue for China in a case involving unbleached cotton (COM Reg No. 2208/96 1996). In sum, the prices charged for the commodity under investigation in the analogue are considered the "normal value," and are substituted for NME prices, sometimes with modification, in order to calculate a dumping margin.

Analogue Country Selection Problems and Information Problems

As the above discussion suggests, the selection of an analogue has profound implications on the prices that are used in determining the presence or absence of dumping. Analogue choice can make the difference between a positive or negative

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[98] See Fine for an excellent discussion of the EU method of calculating normal value in NME anti-dumping cases (1988). Tharakan also provides a good explanation of some of the problems with the use of the surrogate method to determine normal value (1994).

[99] Again note this interesting political example. Yugoslavia is classified as a "market economy" and its own prices are used in a parallel anti-dumping case against a non-market economy.

finding of dumping. The Commission has total discretion in making these determinations, as the Council can only vote yea or nay on the Commission's final anti-dumping recommendation. The selection of an appropriate analogue is vaguely worded in European anti-dumping regulations. This discretion provides room for Commission beliefs and perceptions about NMEs to affect the implementation of the laws.

The regulations stipulate that the analogue should be selected "not in an unreasonable manner" (European Commission 1997). In practice this means that a host of factors goes into selecting an analogue, including "the conditions of competition in the candidate analogue country and the characteristics of its domestic industry, such as the degree of its rationalization and modernization and its cost-consciousness" (European Commission 1997, 2). Other factors such as wage comparability, similarity of product, similarity of production method, similarity of access to raw materials or factors of production, and volume of domestic sales are often cited as reasons why an analogue is considered reasonable.

Based on these suggestions for analogue selection, common analogues for non-market economies often include other developing countries such as Korea, Thailand, Brazil, India, Malaysia, and Indonesia (see table 6-2). These countries tend to be the most appropriate proxies in terms of wage levels, sophistication of industry development, size of export/import market, and technological development. However, the most important analogue selection criterion for the Commission is the ability to obtain information.[100] Since these developing countries are also subject to numerous anti-

Table 6-2: Sample of Affirmative Anti-dumping Cases Against Non-market Economies with Developing Countries as Analogues (1990-2000)

Case	Non-market Economy	Product	Analogue Country
EC No. 2093/91, OJL 18/07/91	China	Small screen TVs	Hong Kong
91/522/EEC, OJL 02/10/91	Soviet Union	Artificial corundum	Yugoslavia
91/522/EEC, OJL 02/10/91	Hungary	Artificial corundum	Yugoslavia
EC No. 3433/91, OJL 28/11/91	China	Pocket lighters	Thailand
EC No. 1189/93, OJL 15/05/93	Hungary	Seamless iron pipe	Croatia
EC No. 1189/93, OJL 15/05/93	Poland	Seamless iron pipe	Croatia
EC No. 710/95, OJL 01/04/95	China	Color TVs	Singapore
EC No. 2022/95, OJL 23/08/95	Russia	Ammonium nitrate	Poland
EC No. 2022/95, OJL 23/08/95	Lithuania	Ammonium nitrate	Poland
EC No. 5/96, OJL 04/01/96	China	Microwave ovens	Korea
EC No. 584/96, OJL 03/04/96	China	Iron/steel pipe fittings	Thailand
EC No. 2208/96, OJL 18/11/96	China	Unbleached cotton	India
EC No. 1490/96, OJL 30/07/96	Belarus	Polyester fiber	Taiwan
EC No. 119/97, OJL 24/01/97	China	Ring binders	Malaysia
EC No. 165/97, OJL 01/31/97	China	Footwear	Indonesia
EC No. 981/97, OJL 31/05/97	Russia	Seamless iron pipe	Czech Rep
EC No. 1786/97, OJL 17/09/97	Ukraine	Silicon carbide	Brazil
EC No. 1931/97, OJL 04/10/97	Uzbekistan	Unalloyed zinc	Poland
EC No. 1931/97, OJL 04/10/97	Kazakhstan	Unalloyed zinc	Poland
EC No. 2380/98, OJL 23/01/98	China	Leather handbags	Indonesia
EC No. 904/98, OJL 30/04/98	China	Fax machines	Korea
EC No. 1802/99, OJL 18/08/99	Ukraine	Seamless pipe	Croatia
EC No. 362/99, OJL 19/02/99	Ukraine	Steel ropes/cables	Poland
COM Doc. (2000), 504 final	China	Fluorspar	South Africa
EC No. 967/00, OJL 09/05/00	China	Hairbrushes	Korea
EC No. 837/00, OJL 27/04/00	China	Picture tubes	Malaysia
COM Doc. (2000), 43 final	China	Magnesia	Turkey
EC No. 2605/00, OJL 30/11/00	China	Scales	Indonesia
EC No. 255/01, OJL 02/02/01	China	Lamps	Mexico
EC No. 230/01, OJL 02/02/01	Russia	Steel ropes	Korea

Source: Commission Regulations and Council Regulations, various years. *Official Journal.*

[100] Various interviews with trade officials at the European Commission, DG I. Brussels, Belgium, Fall 1999.

dumping investigations themselves, this provides the EU with a ready made source of information for use on similar cases against non-market economies.

Because of the various problems obtaining information about an analogue's costs of production, any analogue that will comply with an investigation is chosen, even if it is a poor proxy for the non-market economy. As a result, the analogue involved in a concurrent or recent anti-dumping investigation will most often be used to price the costs of production in a non-market economy. In such cases the analogue is forced to supply the information to the EU. However, since the analogue is already guilty of dumping, using its costs of production increases the likelihood that the non-market economy will be found guilty of dumping as well.[101]

There is an enormous problem getting adequate, reliable information from analogue countries.[102] Analogues that are not involved in their own anti-dumping investigations cannot be forced to comply with other EU investigations. The EU needs the cooperation of the relevant firms in supplying information about costs of production, factor inputs, wage levels, etc., since this information is not publicly available. To compound the problems, analogue countries have powerful disincentives to comply, as it is costly, time consuming and possibly self-defeating.[103] The information revealed by a

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[101] Various interviews with officials in Anti-dumping Investigations, European Commission, DG I. Brussels, Belgium, Fall 1999.

[102] Note, the U.S. relies on publicly available information from surrogates in its investigations. The EU relies on confidential industry financial statements, which are much more difficult to obtain. This explains why the U.S. does not have the same information problems that the EU does in obtaining surrogate information for use in normal value calculations. However, the use of the constructed value method by the U.S. has its own unique set of problems, as was explained in chapter 5.

As an interesting side note, each of the trade agencies thinks it does a better job than the other in administering trade laws to NMEs. Various interviews.

[103] Various interviews with high ranking officials in Anti-dumping Investigations, European Commission, DG I. Brussels, Belgium, Fall 1999.

cooperating firm could be used against it later on, should it be accused of dumping in the future.

There are also incentives to provide misleading information. The analogue could provide information that might overstate or understate its costs of production. For example, if the analogue wanted to drive competitors out of the market, it could inflate its costs of production. By inflating the cost of production information, the EU would use the higher figures to determine proxy costs for the non-market economy. These higher costs would be compared to the actual export price and would result in inflated dumping margins against NMEs. Dumping margins might be substantial enough to drive non-market economies out of the market. Since the accuracy of the information is vital to determine whether or not non-market economies are dumping, information problems affect the fairness of the anti-dumping determinations.[104]

Moreover, NMEs still face information problems and uncertainty of their own. NMEs cannot know ahead of time what price will be considered "dumping" by the European Commission. They cannot know before hand, what analogue will be chosen as a price proxy, and they cannot determine what price constitutes "fair value." Although the Commission employs a slightly different variation of the surrogate country method than that used by the United States, both methods make it impossible for the NME to

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[104] An analogue country might also have a short run interest in underestimating its costs of production. Providing misleading low cost of production information might be a way for an analogue to legitimize its own low export costs and shield itself from future dumping accusations.

In this project, I do not theorize about what conditions might encourage an analogue to file erroneous or accurate information. To understand the decision-making process of any firm would require information specific to the country, industry, level of development, time frame, relevant competition in the international system, and product cycle. This project deals at too high a level of abstraction to address these firm specific incentives. This section was simply designed to raise a host of issues surrounding the selection of a surrogate, and to highlight the tremendous information problems involved in the process.

determine what price will be considered "normal value," and therefore what price to charge in order to avoid dumping accusations.

In theory, the use of developing country price proxies might allow the possibility of finding comparable wage levels and levels of economic development between the analogue and the non-market economy for the purposes of the anti-dumping case. In practice, the use of the analogue country method all but guarantees that the Commission will find the NME guilty of dumping.[105] Poor analogue choices, information problems from the analogues, and presumptions that these second best price proxies are better than the prices provided by NMEs, all result in discriminatory policies against non-market economy exports.

A high ranking Commission official said that the Commission knows using the analogue method will always result in positive dumping findings against NMEs.[106] If the dumping margin was high, meaning over 50%, then the official could be reasonably sure there was actual NME dumping. The dumping would probably not be as high as that calculated by the Commission, but the Commission was probably doing right by Community industries by imposing dumping duties. But if the dumping margin was low, then it is possible there was no dumping at all; the figure could be a fiction of the analogue method.[107]

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[105] In interviews with trade officials in Anti-dumping Investigations in the European Commission, they confirmed that the analogue country method always results in the finding of dumping on the part of NMEs. The method is biased against NMEs. DG I, European Commission, Brussels, Belgium, Fall 1999.

[106] The Commission almost always finds that NMEs are dumping, due to the method used to calculate dumping margins. However, dumping duties are not always assessed because the duties might not be in the Community's interest or the dumping might not be causing injury to the domestic industry. All three components are needed to assess a dumping margin.

[107] Information from several interviews with Heads of Units and Directors in DG I and DG IA, European Commission. Brussels, Belgium, Fall 1999.

Analogue Method in Practice: Lessons in Legitimate Comparative Advantages

In addition to the analogue selection and information problems already described, the Commission also uses advanced industrialized countries as price proxies for NMEs. This practice contradicts official EU policy stating that such advanced economies are ill-suited to serve as analogues for NMEs. For example, Canada, the U.S., Norway, even the entire European Union have been used as third country analogues in cases against non-market economy exports (table 6-3). This is a particularly egregious deviation from the intent of the anti-dumping laws.

Since non-market economies necessarily compete on price to break into new markets, and since the types of goods they tend to export are labor or energy intensive, the use of advanced industrialized democracies as analogues substantially inflates the dumping margin. In essence, the use of these types of price surrogates negates the possibility of finding that a NME has a natural comparative advantage in the production of any good (Laurent 1996). These cases have also been used to "teach" NMEs what constitutes a viable comparative advantage in the international political economy. A review of a few cases will elucidate this problem.

In the case of *Unwrought Magnesium from Russia and Ukraine (1995)*, the Commission used Norway as a price analogue to determine normal value. The Commission argued that since Norway was a significant producer of this product, had an efficient production process, enjoyed low cost electricity, and had similar access to raw materials (sea water and dolomite), Norway would be an adequate analogue (COM Reg No. 2997/95 1995). Differences in the quality and purity of Norwegian output and

Table 6-3: Sample of Affirmative Anti-dumping Cases Against Non-market Economies with OECD Countries as Analogues (1990-2000)

Case	Non-market Economy	Product	Analogue Country
EC No. 1937/90,OJL 07/07/90	China	Typewriter ribbon	EU
EC No. 3642/92, OJL 14/12/92	Poland	Ferrosilicon	Norway
EC No. 3068/92, OJL 24/10/92	Ukraine	Potash	Canada
EC No. 3068/92, OJL 24/10/92	Russia	Potash	Canada
EC No. 3068/92, OJL 24/10/92	Belarus	Potash	Canada
EC No. 821/94, OJL 13/04/94	China	Silicon carbide	United States
EC No. 821/94, OJL 13/04/94	Poland	Silicon carbide	United States
EC No. 821/94, OJL 13/04/94	Russia	Silicon carbide	United States
EC No. 821/94, OJL 13/04/94	Ukraine	Silicon carbide	United States
EC No. 821/94, OJL 13/04/94	Norway	Silicon carbide	United States
EC No. 137/96, OJL 27/01/96	China	Chamottes	United States
EC No. 600/96, OJL 04/04/96	China	Coumarin	United States
EC No. 1006/96, OJL 05/06/96	China	Powdered carbon	United States
EC No. 1347/96, OJL 12/07/96	Russia	Unwrought magnesium	Norway
EC No. 1347/96, OJL 12/07/96	Ukraine	Unwrought magnesium	Norway
EC No. 1347/96, OJL 12/07/96	Kazakhstan	Unwrought magnesium	Norway
EC No. 2496/97, OJL 16/12/97	China	Silicon metal	Norway
EC No. 449/98, OJL 27/02/98	Belarus	Potassium chloride	Canada
EC No. 449/98, OJL 27/02/98	Russia	Potassium chloride	Canada
EC No. 449/98, OJL 27/02/98	Ukraine	Potassium chloride	Canada
98/90/EC, OJL 22/01/98	China	Dihydrostreptomycin	Japan
EC No. 771/98, OJL 09/04/98	China	Tungsten carbide	United States
EC No. 603/99, OJL 20/03/99	Czech Rep [a]	Polypropelene binder	United States
EC No. 603/99, OJL 20/03/99	Hungary [a]	Polypropelene binder	United States
EC No. 1238/00, OJL 15/06/00	China	Coke	United States
EC No. 299/01, OJL 12/02/01	China	Potassium permanganate	United States

Note: (a)—in these cases the countries had been reclassified as market economies, but surrogates were still used in determining normal value

Source: Commission Regulations and Council Regulations, various years. *Official Journal.*

Russian and Ukrainian output were ignored, even though the lower purity of NME output should have lowered its market price. The biggest problem with the use of Norway involved labor costs. Since labor costs comprised a substantial proportion of the cost of magnesium, using Norway as an analogue inflated the "normal value" of the commodity.

Russian producers argued that Norwegian labor costs were not comparable to labor costs in Russia, and use of this analogue would result in unfair dumping determinations (Council Reg No. 1347/96 1996, recital 16). The NMEs argued that their low labor costs should make their exports more competitive than Norway's on the international market. The Commission rejected this claim, specifying which costs **do not** constitute a comparative advantage for NMEs. "A number of claims put forward by the exporters concerned cannot be accepted, as such claims related to certain cost advantages, in particular with respect—to production labor costs, --depreciation costs; --environmental costs; --selling expenses; --and raw material costs" (COM Reg No. 2997/95 1995, recital 36). Therefore, the Russian and Ukrainian producers' claims that they enjoyed a comparative advantage in terms of raw materials and labor were rejected. In effect, the Commission summarily rejected that low labor costs could constitute a comparative advantage in the production of a commodity from non-market economies.

The Commission then went further in interpreting what constitutes a comparative advantage. It subsequently imposed its interpretation of correct energy and environmental policies on the constructed cost of production for Russia and Ukraine. The Commission explained that not only would it use Norwegian labor costs, but it would make adjustments to the Russian and Ukrainian costs to take into consideration energy and environmental policies that they *should have* followed.

> It has been concluded that the normal value established in the analogue country should be adjusted in order to reflect that the Norwegian production process has a lower yield of by-product [meaning pollution] while being more energy efficient. Such an adjustment was done on the basis of electricity prices prevailing in the analogue and on the basis of an estimate of the prices of the main by-products valued at prices prevailing in the Community adjusted for necessary purification treatment (Council Reg No. 1347/96 1996, recital 27).

In sum, the European Commission ruled that not only were Russia and Ukraine not allowed to treat cheap labor as a comparative advantage, but were also not permitted to waste energy or pollute in the production of products for export. After imposing anti-dumping duties on Russian and Ukrainian magnesium imports, the volume of imports fell by 49% and the value of imports fell 55% (COM Reg No. 1002/98 1998, recital 47). This is not surprising given the high anti-dumping duties arrived at after pricing energy, environmental protection, and labor costs using Norwegian costs of production.

In a similar case against Chinese exports of unwrought magnesium (1998), the Commission ruled that the large and conveniently located reserves of raw materials, low investment overhead, low labor costs and low costs of production that characterized the Chinese industry could either not be quantified or were not considered "relevant" in determining the normal value of Chinese goods (Council Reg No. 2402/98 1998, recital 9). Norway was again used as an analogue country for the determination of normal value, and dumping was found.

In *Powdered Carbon from the People's Republic of China (1995)*, the costs of environmental protection became an anti-dumping issue (COM Reg No. 1984/95 1995). In this case the United States, Japan, and Malaysia were all considered by the EU as possible analogues for China, and the United States was finally selected. In this case the

European Commission did not think labor price differentials between the United States and China would affect a fair anti-dumping determination because the production of powdered carbon was not labor intensive. This is of course a curious disclaimer since in other cases the Commission rejects the very possibility that a non-market economy could have a comparative advantage in labor intensive production.

In determining what would constitute a fair value for powdered carbon imports from China, the cost of environmental friendly production methods was included. Since European producers had updated their production methods to decrease environmental pollution, this was considered the standard to which Chinese exporters should comply. Since Chinese exporters were not following the same environmental standards, estimates of Chinese production costs were revalued appropriately. So in this case U.S. domestic prices for labor and access to raw materials were used to price Chinese exports to the EU, and costs for environmental protection as well as raw materials usage were added on top (COM Reg No. 1984/95 1995, recital 57). The resulting anti-dumping margin of more than 70% resulted in the expected drop in Chinese imports. This case sets an interesting precedent of imposing European environmental policies on imports from non-market countries.

In the case of *Potassium Chloride from Russia, Belarus, and Ukraine (1998)*, the Russian and Belarussian industries argued that they enjoyed a natural comparative advantage in the production of potassium chloride as compared with Canada, the chosen analogue country (Council Reg No. 449/98 1998). "The Russian and Belarussian mines [claimed they] enjoyed natural comparative advantages in terms of access to raw materials, production process, proximity of production to customers and special

characteristics of the product, ie. the size of the reserves, the general characteristics of the mines, and their geographical location, and finally the characteristics of the ore" (Council Reg No. 449/98 1998, recital 32).

The EU rejected these claims of a natural comparative advantage and argued that none of these claims could be "clearly demonstrated and evaluated in terms of cost" (recital 34). The largest cost in the production of potassium chloride was transportation, namely getting the ore from the mines to market (recital 29). In spite of the difference in transportation costs between NMEs and Canada, the prices of Canadian rail and road transport were applied to Russian, Ukrainian and Belarussian calculations of normal value. Not surprisingly, a positive dumping duty was assessed.

Other European actors have questioned the Commission's treatment of NMEs under the current anti-dumping laws. The European Parliament questioned the fairness of using Canada as an analogue in the aforementioned case, citing the incomparable production costs between Canadian firms and Belarussian, Russian, or Ukrainian firms (European Parliament 1996). The European Court of Justice ruled that the Commission was wrong to say that the comparative advantage of a NME could not be quantified. The ECJ has chided the Commission to work harder at finding comparable analogues and taking potential comparative advantages into account in the determination of normal value (European Court of Justice 1991). The European Foreign Trade Association (FTA) has also lobbied against Commission anti-dumping determinations, specifically citing the Commission's use of the analogue country method as an unfair practice. The FTA argued that anti-dumping laws were being manipulated "to abusively counteract the

lawful comparative cost advantages enjoyed by developing countries" (Agence Europe 1996a).

Officials at the European Commission do not see the need to correct their treatment of NMEs.[108] In interviews with trade officials and heads of units in the Commission, all denied that labor, energy or the use of the environment could constitute a comparative advantage for NMEs. Each official charged with administering anti-dumping duties gave similar responses to questions regarding the potential comparative advantage of non-market economies; namely they did not have any. Low labor costs or labor abundance were routinely rejected as a possible comparative advantages. The EU official charged with overseeing external relations with China could not even think of a comparative advantage that China might enjoy.

Other developing countries are *not* treated like non-market economies. India, Pakistan, Egypt, Indonesia, Thailand, and others do not have the same labor, environmental or energy standards applied to them. Despite the fact that many developing countries have very low labor rates, or subsidized, state-owned, inefficient energy production, or pollute or abuse the environment as a by-product of their production for export, the EU does not use its anti-dumping laws to thwart these practices. It is accepted that these types of "comparative advantages" are low value-added, short-term practices to help developing countries earn capital in the international division of labor. As such, non-market economies are held to a different standard of development than other types of developing countries.

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[108] Interviews with various Heads of Unit and Directors in the European Commission, DG I. Brussels, Belgium, Fall 1999.

There is sufficient latitude in anti-dumping laws to allow trade officials to adjudicate anti-dumping cases in accordance with their interpretations of "comparative advantage." The European Court of Justice has affirmed the importance of giving the Commission "a wide discretion in regard to the assessment of factual situations of a legal and political nature in a state-trading country" (European Court of First Instance 1996, II-875). This discretionary ability provides the Commission with room to act on its beliefs about NMEs in administering the anti-dumping rules. Analysts are able to act on presumptions about the threatening nature of trade with NMEs, or assumptions about the antagonistic interests of NMEs in assessing the facts surrounding NME cases. In assessing these "facts," the Commission brings its opinions and beliefs about non-market economies to bear on the administration of the cases.

Information Requirements and Presumptions about NMEs

The EU presumes that non-market forces operate in NMEs in transition. The EU presumes that trade with NMEs is different from trade with other countries. The EU presumes that NMEs have an interest and incentive to dump, as well as provide misleading information. These presumptions are grounded in Cold War beliefs about NMEs. These beliefs were based on a rational assessment of the capabilities, interests, and incentives of NMEs at one point in time. However, both international conditions have changed and domestic institutions in NMEs have changed. This means that non-market economy internationally determined interests and domestically determined incentives have also changed. Lingering beliefs about the threatening nature of trade

with NMEs continue though, and impede the ability of the Commission to process fully new information about the former Communist countries.

For example, the Commission often focuses on the lack of sufficient information, or problems with the information provided by the NME defendants. If the defendant provides inaccurate information, either intentionally or unintentionally, the Commission rejects all the information and assigns the NME the highest allowable dumping margin for its lack of cooperation. Often times, NMEs will provide all the information they have available, yet it will be rejected because it is not in the format usable by the Commission or does not address all the Commission's questions. This treatment of NME information is consistent with Commission beliefs that NMEs are antagonistic, have an incentive to dump, and want to provide misleading information.

The Commission does not make the same presumptions about the quality of information or the intentions of the defendants from other countries. The Commission will penalize a company for intentionally trying to mislead or provide false information, but it generally grants companies the benefit of the doubt. For example, in a case involving *Steel Ropes and Cables from Russia, Korea et.al (2001)*, a Korean firm gave misleading information but was not penalized by the Commission. A Korean exporter did not report all expenses incurred in the production of the commodity under investigation. But the Commission determined "given the fact that the party had acted to the best of its ability, and that the information submitted was verifiable, the Commission was able to correct the figures reported in the questionnaire" (COM Reg No. 230/2001 2001, recital 46).

Presumptions about the non-market behavior and antagonistic intentions of NMEs are difficult, if not impossible, for many NMEs to overcome in the short term. A plaintiff in the case of *Climax Paper Converters from China* took the anti-dumping case to the European Court of First Instance, arguing that it was not enough for the Commission or Council to assume non-market activities in cases against NMEs, but the Commission had to prove non-market activities (European Court of First Instance 1996). This would have fundamentally changed the nature of NME cases, and resulted in much more beneficial treatment of NME defendants. The Court rejected this proposal saying the Commission could act on presumptions about the nature of NMEs. Presumptions and beliefs about the antagonistic interests of NMEs and harmful incentives of their domestic institutions continue to affect the way the Commission administers anti-dumping cases against these countries.

In an interview with an Official in Anti-dumping Investigations in DG I, he supported this assertion that beliefs and presumptions about NMEs affect the Commission's interpretation of trade cases. The official said that there is a presumption of non-market activities in NMEs, but a presumption of market activities in Asian developing countries. The official pointed out a certain "darkness about their [Asian] market practices," a lack of transparency in Asia, "dark" accounting practices, and specifically the fact that Korean *chaebol* are clearly not-market oriented. However, the institutional structures of Asian developing countries are simply not questioned, while those in NMEs are actively questioned.[109]

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[109] Interview with Official in Anti-dumping Investigations, DG I. European Commission: Brussels, Belgium, Fall 1999. For a discussion of Korea's industrial conglomerates called chaebol, see (Haggard 1990, esp 130-138).

Other analysts at the Commission say they do not like conducting anti-dumping investigations of non-market economies. They don't like visiting these countries on anti-dumping investigations, they are unhappy with the backward conditions in these countries, they find the conditions surrounding the case onerous and the information requirements impossible. They are unhappy to implement the analogue country methods calling it a "painful exercise." In several interviews, officials independently brought up the corruption in NMEs, and why they should be treated differently from other countries. The Russian mafia or Ukrainian corruption are cited as reasons why these countries are not to be trusted.[110] Because of the alleged "market disruptions" in these countries, "widespread irregularities" and high levels of corruption, NMEs are perceived to merit much more cautious treatment by the Commission. In the next section I will test whether these presumptions about corruption levels, economic freedom, and institutional irregularities are empirically valid.

Are NMEs Institutionally Different from Other Developing Countries?

The examples in the preceding section all took place from 1995-2001. These are not cases against NMEs in the middle of the Cold War. These are anti-dumping cases against NMEs in the midst of economic transitions. Is there something institutionally different about NMEs today that merits their continued discriminatory treatment? In this section, I test whether there is something significantly different about the domestic institutions of non-market economies when compared to the institutions of other developing countries that might account for the difference in their treatment. Perhaps

[110] Three different interviews with officials in DG I and DG IA. European Commission: Brussels, Belgium,

NMEs are more corrupt as the EU trade officials alleged. Perhaps NMEs are less market oriented or less politically free than other developing countries that the EU thinks are comparable.

If non-market economies in the post-Cold War period are institutionally quite different from other types of developing countries, this would undermine a belief based hypothesis. The European Commission might treat NMEs differently from other countries simply because they are different. As in the U.S. case analysis in chapter 5, in this section I test whether there are significant differences between NMEs and other countries chosen as price analogues in EU anti-dumping cases in terms of economic freedom, political freedom, level of democratization, corruption, geographic proximity and trade importance. Perhaps non-market economies are less democratic, more state controlled, less politically free, and more corrupt than other types of developing countries. If so, differences in domestic institutions between the two groups should show up in a statistical analysis.

If this analysis demonstrates statistically significant differences in the domestic institutions of NMEs and other countries, this would work against a belief based hypothesis. If material conditions can explain the differential treatment of NMEs, there is no room to explore ideational factors in the Commission's trade decisions. If however, there are no differences between NMEs and other developing countries, this suggests that material conditions are insufficient to explain patterns of trade protection, and that perhaps there is a role for beliefs in an analysis of patterns of trade discrimination.

Fall 1999.

Data and Variables

I have used the analogues selected by the European Commission in recent anti-dumping cases in order to construct a data set of NMEs and similarly situated developing countries (table 6-4). I compare the domestic institutions of non-market economies and their analogues along six factors to see if there are significant institutional differences. 1997 is the year of comparison, to test whether NMEs in transition differ from other developing countries.

Since the EU had already reclassified and treated Hungary, the Czech Republic, Poland, and Slovakia as "market economies" by 1997, I have not included them in the sample of NMEs.[111] Excluding them is the more difficult test. Do NMEs differ from other developing countries even when the most advanced, market oriented NMEs are removed from the sample? Latvia, Lithuania, and Estonia's market status had not yet been ratified by 1997, therefore they are included. Although Romania and Bulgaria were reclassified as "market economies" in 1993-4, they had not been treated as such under anti-dumping laws by 1997. Therefore I have included them in the sample of NMEs. The samples of NMEs and analogues in the EU study differ slightly from the samples

Table 6-4: Countries in European Union Analysis (Total 26)

NMEs		EU Surrogates for NMEs		
Albania	Lithuania	Brazil	India	Norway
Bulgaria	Romania	Canada	Indonesia	Singapore
China	Russia	Croatia	Korea	South Africa
Estonia	Ukraine	Egypt	Malaysia	Thailand
Georgia	Vietnam	Hong Kong	Mexico	Turkey
Latvia				

tested in the U.S. case chapter. This is because the U.S. and EU treat NMEs differently, and have used different surrogate/analogue countries in determining normal value in anti-dumping investigations. The sample was chosen to maximize country diversity, and was limited by data availability.

I compare several domestic institutional factors which might account for the perceived differences between NMEs and other countries.[112] First, I compare corruption levels. NMEs are perceived to be more corrupt than other countries. Second, I compare levels of democratization. NMEs are believed to be less democratic than other developing countries. Third, I compare levels of political freedom, meaning civil and political freedoms of citizens. NMEs are believed to be less politically free than developing countries. Fourth, I compare degree of economic freedom between NMEs and other countries. NMEs are presumed to be less economically liberal, or more state influenced than other developing countries. In sum, corruption, weak democratic institutions, lack of political freedom, and low levels of market based economic activity might explain why NMEs are treated differently.

I also look at three strategic factors which interact with domestic institutions and might explain why NMEs are seen as "different" from other developing countries, namely level of economic development, geographic distance and trade importance. First, less developed countries tend to wield less power than more developed countries. Maybe the low level of economic development of NMEs explains their poor treatment. Second,

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[111] Note, I ran regressions for samples including and excluding these four countries (the group of deviant satellites). The results from both models are the same. There is no significant change in the independent variables by including or excluding these countries.

[112] This explanation of the variables mirrors that in chapter 5, as the same logic for variable selection holds in both cases.

trade importance might factor in to the EU's treatment of NMEs. If a country is of low trade importance, the EU might worry less about treating it poorly for there would be fewer domestic trade repercussions.

Third, geographic distance might also be a factor to consider in conjunction with political and economic institutions. The EU might be more concerned with the domestic institutions of a neighbor than a distant country because the neighboring country could have direct effects on the EU. For example, lack of economic or political freedom in Romania might be of greater concern to the EU than similar conditions in Thailand, due to the possibility of spillover effects. Economic and political refugees from Eastern Europe can seek jobs or asylum in Europe relatively more easily than refugees from Africa or Asia. Geographic proximity could increase the political saliency of the other country's institutions. This variable should be more important to the EU than the United States, given the EU's closer geographic proximity to Central and Eastern Europe and the former Soviet Union.

Using a logit analysis I test whether there are statistically significant differences between NMEs and other developing countries that the European Union has labeled "similar" in the context of anti-dumping cases. I examine seven criteria: domestic corruption, level of democratization, GDP per capita (as a proxy for level of economic development), economic freedom, political freedom, trade importance, and geographic proximity. The dependent variable is dichotomous country type (1= non-market/0= market). Where some of the data are ordinal and bounded, they have been transformed to

meet assumptions of normality.[113] Table 6-5 summarizes the hypothesized direction of the variables.[114]

Results

The results from the analysis of European Union data are similar to the U.S. results (see table 6-6, note U.S. analogous data-- table 5-8). The chi-squared tests are significant in all the models, allowing one to reject the null hypothesis. I test five different permutations of the variables to avoid multi-collinearity problems with some of the highly correlated variables.[115] Corruption, democratization, GDP per capita, economic freedom, political freedom, and this time trade importance, are not statistically significant in any of the models.

The only variable that is significant in the EU analysis is geographic proximity. This variable was not significant in the U.S. analysis. The domestic economic and political conditions of neighbors may be of greater importance to the EU because of the potential spill-over effects. NMEs tend to be closer to the EU than other developing

Table 6-5: Summary of Variables

Independent Variables	Expected Sign
Domestic corruption	+
Democratization	-
GDP per capita	-
Economic Freedom	+
Political Freedom	+
Trade importance	-
Geographic distance	-

[113] I have made the following transformations in order to normalize the data: the natural logarithms of geographic proximity, corruption, GDP/capita; the square roots of political freedom, trade importance; and the square of democratization and economic freedom.

[114] See Appendix 4-1 for an explanation of the operationalization and data source used for each variable.

[115] GDP per capita and Corruption are highly correlated (.77); Democratization and Political Freedom are highly correlated (-.68); and Economic Freedom and GDP per capita are highly correlated (-.80).

Table 6-6: Are NMEs institutionally different from other developing countries?

Parameter Values for Logit Model (EU Data, 1997)

Dependent Variable: Type of country (0/1 NME)	Model 1	Model 2	Model 3	Model 4	Model 5
Domestic corruption	-2.28 (2.09)	-1.49 (1.87)	---	---	-2.26 (2.16)
Democratization (institutions)	0.02 (0.03)	---	---	0.002 (0.03)	0.01 (0.03)
Economic Freedom	0.24 (0.19)	0.28 (0.22)	0.30 (0.23)	---	0.19 (0.19)
Political Freedom	---	-1.25 (1.80)	0.11 (1.78)	---	---
GDP per capita	---	---	---	-1.86 (1.18)	---
Geographic distance (km)	-1.68* (0.81)	---	-1.29 (0.85)	-2.43* (1.41)	-1.49* (0.86)
Trade importance (US/EU exports to country)	---	-33.77 (25.28)	-27.85 (20.82)	-8.75 (22.09)	-25.67 (21.65)
Constant	12.76* (7.94)	2.86 (4.49)	8.63 (6.12)	33.81* (17.88)	13.56 (8.59)
Chi-square	12.73**	11.12**	16.46***	17.90***	14.27**
Pseudo R2 (Cox & Snell)	0.41	0.37	0.47	0.51	0.45
% Correctly Classified	83.30%	79.20%	84.60%	80.00%	79.20%
Sample Size	24	24	26	25	24

1. Coefficients are unstandardized logistic regression coefficients: standard errors in parentheses.
2. *p<.05; **p<.01; and ***p<.001.

countries, and the EU may be more aware and concerned with their domestic institutions as a result of the potential direct effects on the EU. However, geographic proximity alone cannot predict or explain NME treatment. Croatia, Bosnia, Slovenia, Macedonia and Yugoslavia are not considered non-market economies, and have never been labeled as such. Therefore, while geographic proximity may be a factor explaining why the EU would care about the domestic economic and political institutions in a NME, it cannot explain why the EU treats some developing country neighbors as non-market economies and some as market economies, when both groups are at the same level of economic and political development.

In sum, the statistical analysis reveals that NMEs are not more corrupt, or less politically free or less economically free than other developing countries. It has shown that trade importance and overall development level are not important factors in explaining which countries are treated as non-market economies. It demonstrates, in particular, that Commission perceptions about the corruption in NMEs are not based on accurate measures of corruption levels in NMEs compared to other developing market economies. This analysis is interesting because it reveals that differences in domestic economic and political institutions cannot explain the discrimination against NMEs (hypothesis #1). There are no appreciable material differences between institutions in NMEs and developing countries. This suggests that perceptions about NMEs are different, even if the material conditions are not. I argue that these perceptions are affected by lingering Cold War beliefs about the inherently antagonistic and threatening nature of trade with NMEs. I now turn to examples of how these beliefs impede formal trade rule change.

Part II: Formal Rule Change but Outcome Stasis

In the post-Cold War period, the European Commission amended its NME anti-dumping laws to improve their fairness and transparency. As per the example set by the United States, the EU found changes to its anti-dumping laws necessary in order to take into account the tremendous economic and political reforms in many of the transitional economies. In this section I will discuss two such formal rule changes: individual treatment and the Market Economy Status determinations.

In theory, these changes are designed to give NME industries more beneficial treatment under the law. However, the formal rule changes have been circumvented by the manner in which the rules are applied. As with the case of the MOI test in the United States, the European Commission has carefully avoided giving NMEs the benefits of the formal rule changes. In this section I demonstrate how implementation of these formal rule changes is stymied by lingering beliefs that NMEs are "different" from other countries, that trade with them is potentially harmful, and that these countries have antagonistic interests toward the West (hypothesis #2).

Individual Treatment

In a typical NME anti-dumping case, the Commission assesses a single country wide dumping margin to all firms named in the case (Council Reg No. 384/96 1996, Article 9(5)). This means that if five Chinese firms are named in an anti-dumping case against bicycles, all five would receive the same dumping margin, regardless of differences in their pricing or market share. The single country wide anti-dumping rate was thought necessary because of the peculiar nature of domestic economic institutions in

non-market economies. The Commission assumed that in a command economy the state could channel exports through any of the state controlled firms. It was assumed that a level of state intervention permeated all firms making a product. Firms were not really individual corporate entities, but all part of a supply structure controlled by the state. Therefore, the state could potentially circumvent anti-dumping duties by channeling exports through the firm or firms with the lowest dumping margins or no dumping margins (Commission Decision 93/377/EEC 1993, recital 8). As such a country-wide dumping margin against all producers of a given commodity was assessed, regardless of the differences between firms within an industry.

In the early 1990s, the Commission instituted a change in this country-wide dumping rate policy, potentially allowing for the individual treatment of NME firms in an anti-dumping case. The idea behind individual treatment was to allow firms in transitional NMEs to demonstrate their market orientation and reap some benefits from their reforms. If a firm could prove sufficient freedom from state intervention in its export activities, the Commission would establish a separate export price and consequentially a separate dumping margin. Individual dumping rates are the norm in regular anti-dumping cases against market economies. Therefore, recognizing that a firm in a NME could receive individual treatment, was an acknowledgment of the market oriented reforms in NMEs.

Individual rates would benefit NME firms by potentially decreasing the final anti-dumping margin. The process of assigning a single value for all NME firms in a case is disadvantageous. It treats all firms as one entity, regardless of degree of economic reform or level of cooperation in the investigation. So the fact that the Commission was

considering granting individual treatment to NME firms in an investigation was a break with the letter and spirit of the formal laws, and showed an appreciation for the reform efforts underway in NMEs. It was particularly targeted toward China and Russia, who because of their size and the uneven pockets of reform in different parts of the country, would be most likely candidates to find some market oriented industries.

The Commission set out conditions for determining if a firm would qualify for individual treatment. Firms need to "demonstrate a degree of legal and factual independence comparable to that which would prevail in a market economy country and which would justify a departure from the determination of a single country wide rate" (COM Reg No. 230/2001 2001, recital 101). The Commission outlined eight criteria to guide its decisions which included: 1) firm level freedom to repatriate capital and profits; 2) firm level freedom to determine export prices and quantities; 3) firm level freedom to carry out business activities; 4) no state interference in the management of the company or of the major shareholders of the parent company; and 5) the firm using market determined factors of production (COM Reg No. 550/93 1993, recitals 34-6; European Commission 1997, Annex). In essence the firm must be "sufficiently free of state control" to allow for individual treatment in anti-dumping cases (Council Reg No. 467/98 1998). This benchmark has proven to be very slippery in practice, and has allowed the Commission to deny NMEs this formal rule change most of the time.

(Mis)Application of the New Rule

Since its initiation in 1993, no Chinese firms have been awarded individual treatment. Joint ventures in China or Hong Kong based firms have received individual

treatment, but no Chinese firms have. Russian firms have been able to demonstrate individual treatment in two recent cases. No other NME has been able to meet the criteria stipulated by the Commission.

The Commission has systematically denied individual treatment to NMEs because of presumptions and beliefs about trade with non-market economies. The Commission continues to believe that NMEs are threatening and that trade with them must be approached with the utmost caution. The Commission has even stated that while "individual treatment may be given to certain exporters in non-market economy countries, in particular where they have demonstrated their independence from the state in the conduct of their export policy and in the fixing of their export prices, it was considered that the *utmost prudence* was required in this matter" (Council Reg No. 1006/95 1995, recital 34).

Because of lingering Cold War beliefs, NMEs exporters are unable to present sufficient information to the Commission to win individual treatment. The Commission continually asks for more and more information from NME exporters as proof that they qualify for individual treatment. The Commission is skeptical that Chinese firms could provide sufficient proof of their export autonomy from the state. "The situation in China makes it even more difficult, if not impossible, to establish whether a Chinese company or a foreign company manufacturing goods in China is truly independent of the state" (Agence Europe 1996b). Russian firms have charged that "The Commission systematically refuses to examine the information provided by the company on the basis of very slim pretexts" (Agence Europe 1997f). The selective rejection of disconfirming information, the hesitancy to acknowledge the scope of reforms in NMEs, and the

contradictory treatment of firms in NMEs are all examples of the Commission behaving as a disproportionate information processor (Jones 2001, 9). A review of a few cases will illustrate how beliefs about NME institutional incentives affect the Commission's evaluation of individual treatment determinations.

In *Non-refillable pocket lighters from the People's Republic of China (1993),* three Chinese exporting firms requested individual treatment (Commission Decision 93/377/EEC 1993). The Commission denied all the individual treatment requests citing state interference in the companies as reasons. Both *direct* state interference, such as state ownership of shares in the company, and *indirect* state interference, such as the state controlling shares in companies who had invested in the Chinese firm under investigation, were grounds for denying individual treatment. This was one of the earliest individual treatment cases, and it is interesting because it sets a precedent whereby both direct and indirect state influences are interpreted as excessive state involvement. In this case, the EU clarified the way it was planning to interpret the new individual treatment rules.

> Individual treatment is appropriate only in *exceptional cases* where the producer concerned has shown that its business decisions are taken independently of the state authorities... Indeed individual dumping margins or anti-dumping duties are inappropriate when the state, through any form of control on the exporters concerned, can take advantage of differentiation of the anti-dumping duty and thus undermine the effectiveness of the measures taken (Commission Decision 93/377/EEC 1993, recital 8 (my emphasis)).

Chinese firms began to routinely request individual treatment.[116] It was just as routinely rejected. In *Ferro-silico-manganese from the People's Republic of China (1997)*, all twelve Chinese exporting firms involved in the case requested individual treatment and provided the Commission with full cooperation in the investigations. Individual treatment was rejected because the Commission found problems with some of the information provided (COM Reg No. 1778/97 1997, recital 17), and the companies were not entirely free to determine the quantities sold on the export and domestic markets" (recital 19). The Commission ruled that this state interference was too substantial to allow individual treatment.

In *Ring Binders from the People's Republic of China (1996)*, the Commission denied individual treatment again because it did not think the firms were sufficiently independent in their method of conducting business and in their procurement techniques (COM Reg No. 1465/96 1996, recital 39). In *Glyphosate from the People's Republic of China (2000)*, the Chinese firms did not send information to the Commission in the correct format (European Commission 2000a). In *Coke from the People's Republic of China (2000)*, unspecified state interference was to blame (Commission Decision 1238/2000/ECSC 2000). In *Color Television Receivers from the People's Republic of China (1994)*, the Chinese firms had agreed to sell some of their output through a state directed exporting company (Council Reg No. 710/95 1995). All of these were reasons to deny a NME firm individual treatment.

State ownership of shares in a firm is often cited as a reason to deny individual treatment to firms in NMEs. However, state ownership of firms in India and Egypt has

[116] For examples see (COM Reg No. 165/97 1997; COM Reg No. 773/98 1998; Council Reg No. 119/97

not caused these firms to experience any discriminatory treatment in anti-dumping cases (COM Reg No. 773/98 1998). In fact state-owned firms in India were used as surrogates for "state influenced" firms in China in an anti-dumping case (Council Reg No. 1334/1999 1999). When I asked about this somewhat irregular occurrence, Commission officials chastised me for thinking too narrowly about the legitimate role of the state in economic activities in market economies.[117] State ownership of firms in "market economies" is fine, but state influence, not even ownership, in NMEs precludes fair treatment under the anti-dumping laws. State involvement in pricing, input sourcing, energy regulation, and export arrangements is allowed if you are labeled a "market economy" by the Commission, but not allowed if you are labeled a NME.

In rejecting individual treatment in the *Color Televisions* case, the Commission argued "this [company level economic] freedom can only be seen as conferring at most a quasi-autonomous status within an economic and political system that still retains a large degree of centralized control and which clearly does not correspond to that which pertains in a market economy country" (Council Reg No. 710/95 1995, recital 25). This suggests that the overarching macroeconomic environment is the problem. Macroeconomic irregularities seem to impede the finding of individual treatment in a NME in transition. This suggests that it is not possible for a firm to qualify for individual treatment if it were in a NME because of the overarching macroeconomic constraints. However, the Commission has not had a problem giving individual treatment to foreign

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1997).

[117] Interview with two trade officials in Anti-dumping Investigations, DG I, European Commission. Brussels, Belgium, Fall 1999.

owned firms in China. The macroeconomic environment is the same, but the Commission presumes very different things about the firms operating within it.

Foreign ventures or fully owned foreign firms operating in China have been able to garner individual treatment. For example, in *Small Screen Television Receivers from the People's Republic of China (1991)*, the Commission denied individual treatment to all the Chinese exporters but awarded individual treatment to the two Sino-Japanese joint venture exporters. The Commission explained that this was justified because "the Chinese exporters, even if they appear as independent companies which invoice their customers directly, have in fact a very limited, if any, degree of independence in their relationship with importers in other countries as they lack the possibility of establishing export prices and any other conditions or terms of sales by themselves" (Council Reg No. 2093/91 1991). The Commission said it was able to "establish to its satisfaction that these [Sino-Japanese] companies, even if they did not operate fully on a market economy basis, enjoyed a high degree of independence in their operations" (Council Reg No. 2093/91 1991, recital 20). In sum, the macroeconomic environment cannot be used as an excuse for rejecting individual treatment to Chinese firms, since the foreign owned firms were themselves operating in the same economic environment.

In *Steel Fasteners from the People's Republic of China (1997)*, all the Chinese firms were denied individual treatment but the "foreign" firms received it (COM Reg No. 1732/97 1997). The Commission concluded that because the Chinese companies required approval from Chinese authorities to start up a company, or modify the articles of association, these companies were state influenced (COM Reg No. 1732/97 1997, recital 36). The Hong Kong based firm received individual treatment, but the Chinese

based firms did not. The dumping differential was substantial. The Chinese firms received a dumping margin of 75.6% and the Hong Kong based firm received a dumping margin of 16.2%.

Again in *Microwave Ovens from the People's Republic of China (1995)* (COM Reg No. 1645/95 1995), *Leather and Plastic Handbags Originating in the People's Republic of China* (Council Reg No. 1567/97 1997), *Ring Binders from the People's Republic of China* (Council Reg No. 119/97 1997), *Fax Machines from the People's Republic of China* (Council Reg No. 904/98 1998), and *Footwear with Leather or Plastic Uppers from the People's Republic of China et.al.* (Council Reg No. 467/98 1998), the Chinese firms were denied individual treatment and Hong Kong based or "foreign owned firms" were awarded individual treatment. Individual treatment makes a substantial difference in the size of the final dumping margin. Table 6-7 provides some examples of comparative dumping margins when country-wide rates are applied and when individual treatment is granted.

Russia has recently been granted individual treatment in the case of *Solutions of Urea and Ammonium Nitrate from Russia et. al (2000)* (European Commission 2000e), and *Steel Ropes and Cables from Russia et. al (2001)* (COM Reg No. 230/2001 2001). In

Table 6-7: Comparison of Dumping Margins

Product	Country Wide Dumping Margin	Individual Treatment Dumping Margin
Footwear /China	47.6%	1.3% (no dumping)
Lamps/China	74.4%	29.8%
Plastic Handbags/China	151.0%	64.3%
Compact disk boxes/China	20.1%	9.0%
Ring Binders/China	129.2%	96.6%
Steel ropes/Russia	50.7%	35.8%
Urea/Russia	41.0%	28.5%
Leather Handbags/China	83.5%	0-7.7%

each case, one of the Russian firms was able to demonstrate sufficient independence from the state to be awarded individual treatment. Each was denied market economy treatment (to be discussed in the next section), but awarded individual treatment as a kind of second best compensation. No Ukrainian firms or firms in other NMEs have been awarded individual treatment in anti-dumping cases thus far. Reclassified NMEs should receive individual treatment as a matter of course. However, there have been cases where firms in reclassified countries have also been denied individual treatment. Romanian firms in *Seamless Pipes and Tubes(1997)* (COM Reg No. 981/1997 1997), and Czech and Romanian firms in *Steel Pipes (1997)* (Council Reg No. 2320/97 1997) are examples of supposedly market economies who were denied individual treatment.

Why change the anti-dumping laws yet refuse to grant individual treatment? Why have the formal rule changes failed to benefit the industries they were designed to help, namely NME firms? In interviews with Commission officials they acknowledged that this formal rule change was conceived for joint ventures, not NME firms. Of course, NMEs were not apprised of this. The officials said that the Commission still believes that Chinese firms could not possibly qualify for individual treatment so they find reasons to reject it.[118] Beliefs about the antagonistic interests and threatening nature of NME trade still permeate the Commission, and affect decision-making regarding NME cases.

The Commission presumes that non-market forces permeate firms in NMEs, and that this has potentially threatening trade implications. Information from NME firms cannot possibly surmount Commission presumptions, because the Commission thinks

[118] Interviews with various trade officials in DG I, European Commission. Brussels, Belgium, Fall 1999.

that even documented evidence of the market orientation of firms in NMEs may be hiding non-market activities.

> The Commission confirms that it is extremely difficult to establish whether a company really enjoys independence from the state, both in law and in fact, and in particular whether it has permanent independence or where it appears to enjoy independence at a certain point in time. Although the economy of the PRC is in transition from a fully state controlled economy to a partially market oriented economy, state control is still a feature of many aspects of economic life and the law and institutions necessary for the functioning of a market economy are not sufficiently developed and familiar to the economic operators and officials (COM Reg No. 2376/94 1994).

The Council has echoed this sentiment arguing that there are "secret laws, laws which are not published and to which foreigners do not have access, dealing in particular with external economic and trade relations" (Agence Europe 1996b). In essence, the Commission and Council are denying individual treatment to Chinese firms based on information about alleged non-market activities which they do not have, but which they think might exist. Presumptions and beliefs about Chinese firms trump the empirical reality of those firms in rendering anti-dumping decisions.

The Commission is ignoring new information about NMEs or rejecting the veracity of new information that disconfirms their presumptions about the non-market nature of transitional economies, as is predicted by belief change theory. The Commission is particularly vigilant against Chinese producers. As an orthodox core country, beliefs about Chinese producers are especially resistant to change. Beliefs about the threatening nature of trade with China, as well as other orthodox core countries, discount disconfirming information. As such, the Commission holds fast to its presumptions and beliefs about Chinese producers and consistently finds reasons to deny

individual treatment. Presumptions and beliefs about NME firms stand in the way of the implementation of formal rule change.

Market Economy Status (MES)

In 1998, China and Russia were removed from the list of "state-trading countries" (Council Reg No. 905/98 1998, Article 1). These changes were designed to increase the fairness and transparency with which anti-dumping laws were applied to these countries, by taking into consideration their extensive market reforms in a way more generous than the individual treatment test previously discussed. Since being removed from the list of non-market economies, Russia and China are considered "hybrid regimes," neither market nor non-market economies (European Commission 1998b, 7). This does not mean that they are now considered market economies for the purposes of anti-dumping laws, as was repeatedly emphasized to me in interviews with Commission officials.[119] This transitional status simply opens up the possibility that market oriented firms in these countries could be treated as such under the anti-dumping statutes.

The EU pledged to consider if firms involved in future anti-dumping cases were market oriented, and to apply market oriented rules to them on a case by case basis. If a firm in China or Russia could prove with documented evidence that all of its inputs were market determined, then its domestic prices would be used in the anti-dumping investigation.[120] It is believed that this would allow Chinese and Russian firms to demonstrate a comparative advantage in the production of certain commodities. It would

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[119] Various interviews with trade officials at the European Commission, DG I and DG IA. Brussels, Belgium, Fall 1999.

most likely result in substantially lower anti-dumping margins, if dumping were found at all. With these changes, the Commission promised to "take a more *systematic approach to issues of individual treatment and natural comparative advantage*" of Russian and Chinese enterprises (European Commission 1998b, 7 (my emphasis)). This language is particularly revealing of the way the Commission typically interprets information in cases against NMEs, namely presuming that the firms could not possibly be market oriented or have a real comparative advantage.

However, this formal rule change has yet to be implemented in practice. I argue that presumptions about the non-market tendencies of firms in these economies combined with lingering Cold War beliefs hinder the Commission from fairly implementing this formal rule change. In each case the Commission finds a reason to deny Chinese or Russian firms market oriented treatment. The only cases in which market oriented firms have been "found" in a NME are when wholly foreign owned firms are producing goods in these countries and exporting to the EU. As such, EU firms operating in China have been awarded market economy treatment, but a Chinese firm or Russian firm has not. A review of the formal rule change and an examination of some cases in which Market Economy Status has been requested and denied will elucidate the role of beliefs in affecting the Commission's implementation of anti-dumping laws to NMEs (or, in this case, hybrid regimes).

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[120] This is akin to the Market Oriented Industry Test (MOI Test) used by the U.S. International Trade Administration (Federal Register 1992, 57FR9411) and discussed in chapter 5.

Overview of the Rules

Similar to the Market Oriented Industry Test devised by the United States, the idea behind the Market Economy Status (MES or Market Economy Treatment (MET)) decision was to treat firms within transitional economies as market oriented if they could prove that they qualified (Council Reg No. 905/98 1998, Article 1(b)). This formal rule change was designed to allow transitional economy firms to use their own prices to determine normal value instead of using surrogate price proxies. Since the use of analogues to determine the normal value of a NME results in affirmative dumping determinations, it is assumed that using a NME firm's actual prices would be more fair. It would also give the exporting firm a real opportunity to prove that it was not dumping.

Market economy conditions that would prove a firm merited Market Economy Treatment include, but are not limited to, the following:

1. decisions of firms regarding prices, costs and inputs, including for instance raw materials, cost of technology and labor, output, sales and investment, are made in response to market signals reflecting supply and demand, and without significant State interference in this regard, and costs of major inputs substantially reflect market values;
2. firms have one clear set of basic accounting records which are independently audited in line with international accounting standards and are applied for all purposes;
3. the production costs and financial situation of firms are not subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
4. the firms concerned are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of firms, and
5. exchange rate conversions are carried out at the market rate.

(Council Reg No. 905/98 1998, Article 1(c); European Commission 1997, Annex I).

The Commission expects to receive information about the costs of all main factor inputs, such as audited accounts, pricing and quantity information, and production process information. The company would have to provide this information over the past two years of business, and translate all relevant documents into English. The company would also have to provide official documentation on loans, debts, fixed assets, and other business related expenses. Letters from the company's bank and bank statements showing a sample of banking transactions records would also be required to collaborate the information provided by the firm (European Commission 1998b, 8).

There are strict time deadlines imposed on NME exporters. In order to be considered for MES, a company in Russia or China would have to return the required information to the Commission within three weeks of the initiation of the anti-dumping process. In the words of the Commission, "due to the tight deadlines, both the criteria and the deadlines are applied strictly. If any information is missing in the completed claim form, or if it is returned late, the claim is automatically rejected" (European Commission 1998b, 8). The information requirements and short time deadlines act as ready made excuses to deny Market Economy Treatment to non-market economies.

MES Rules in Practice

In practice, no Chinese firms or Russian firms have been able to meet the MES criteria, although foreign owned firms in these countries have been awarded MES. Most of the official reasons given for rejecting Market Economy Status revolve around information insufficiencies, "state interference" and not meeting time deadlines. Information problems could mean the information is not complete, does not comply with

Commission specifications, is not correctly formatted, was not turned in within the allotted time deadlines, or is not considered reliable. All of these decisions about the quality and completeness of the information provided by NMEs are up to the discretion of the Commission.

The degree of state interference sufficient to disqualify Market Economy Treatment is also a decision rendered by the Commission alone. There are no set economic indicators for deciding what constitutes excessive state interference. Each of these assessments are made by the Commission on a case by case basis. As a disproportionate information processing organization, the Commission's assessment of information about the degree of market orientation of NMEs is affected by lingering Cold War beliefs about NMEs. A review of some of the cases will illustrate the manner in which the Commission interprets Chinese and Russian petitions for MES treatment.

In *Bicycles from the People's Republic of China (2000),* the Chinese firms could not provide sufficient evidence within the time frame, so the MES claims were rejected (European Commission 2000b, recital 27). Information problems, accounting problems, and unspecified state interference were cited as reasons to deny MES treatment to Russian firms in *Steel Ropes and Cables from the Russian Federation (2001)* (COM Reg No. 230/2001 2001, recitals 92-4). This ruling came despite an independent Canadian anti-dumping study of the Russian steel industry in 1999 that concluded the Russian steel industry was market oriented, and therefore should have never been subjected to the MES test in the first place (Interfax News Agency 1999).

Information provided to the Commission by any firm petitioning for MES treatment must encompass the entire industry of which it is a part. Even if only one firm

exports to the EU, that firm must somehow convince the entire industry to provide information to the EU regarding its financial activities in order for the Commission to consider MES claims. In *Glycine from the People's Republic of China (2000)*, the five Chinese companies requesting Market Economy Treatment were rejected for several reasons, including not providing information on the entire chemicals industry in China (COM Reg No. 1043/2000 2000, recital 11).[121] As with the MOI test administered by the United States, it is particularly difficult to obtain industry wide information, deemed reliable by the Commission, and within the time deadlines specified by law.

State interference in wages, export activities, domestic sales, or factors of production are reasons to reject Market Economy Status for NMEs. In *Coke or Coal Pieces from the People's Republic of China (2000)*, the Chinese firms were denied MES because of unspecified "state interference in wages and exports" as well as information problems (Commission Decision 2730/2000/ECSC 2000, recital 27). In *Electronic Weighing Scales from the People's Republic of China (2000)*, insufficient information, not meeting time deadlines, and unspecified state interference in domestic sales *not foreign sales* were cited as reasons to deny MES to the Chinese firms (Council Reg No. 2605/2000 2000). Both indirect and direct forms of state interference, either formal or informal, constitute excessive state interference in firm level economic activities.

Selling output to the state is grounds for rejection of MES because this could allow indirect state interference in industry pricing, since it is presumed that sales to the state would not be at market determined prices. The Chinese firms in *Cast Iron Tube or*

[121] It is interesting to note that the size of the community industry that won protection in this case was one firm employing a total of 50 workers. This strongly suggests that the power of domestic interest groups is not the primary explanation for patterns of trade protection in these cases.

Pipe Fittings from the People's Republic of China (2000) were refused MES treatment because they sold some of their product to the state, and because of state interference in the form of tax rebates (European Commission 2000d, recitals, 116-188). Likewise, significant state influence in the form of selling some of the commodity to the state and state ownership of land were given as reasons to deny Market Economy Treatment to six Chinese firms in *Hot-rolled Steel from the People's Republic of China (2000)* (Commission Decision 1758/2000/ECSC 2000, recital 13).[122]

One analyst said that the EU's treatment of China in many of these cases is really "the pot calling the kettle black." Member states of the EU have many state controlled firms, such as utilities and transportation companies, and this does not negate their market treatment. Industries can sell their output to the government at preferential prices, and not be considered non-market. There is also state ownership of some public lands, such as fisheries, which does not make the EU fishing industry non-market. Therefore, the analyst commented that the EU is going to have to accept in theory that if one of the inputs is state controlled in a MES case, this would not necessarily negate a positive market industry finding.[123]

The Commission sends contradictory messages to NMEs about the legitimate role of the state in economic development. In *Glycine from China*, the Commission argued that there were some selling restrictions imposed by the state, therefore this state involvement invalidated MES (COM Reg No. 1043/2000 2000, recital 13). However, in *Fluorspar from the People's Republic of China (2000)*, the EU requested state

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[122] For similar Commission reasoning in recent cases see: (COM Reg No. 837/2000 2000; COM Reg No. 967/2000 2000; COM Reg No. 2536/1999 1999).

[123] Interview with Head of Unit in DG I, European Commission. Brussels, Belgium, Fall 1999.

involvement in limiting export sales and was going to impose anti-dumping duties if the state refused to get involved in regulating the market (Council Reg No. 2011/2000 2000). Therefore, state involvement in regulating export sales is fine in some cases but not fine in other cases, according to the Commission.

There have been cases in which firms in China have been awarded MES, but these were not Chinese firms. In *Steel Fasteners from the People's Republic of China (2000)*, the Chinese firms were denied Market Economy Treatment, but the Swedish affiliated companies were awarded MES (Council Reg No. 2570/2000 2000). Similarly, in *Fluorescent Lamps from the People's Republic of China (2001)*, one wholly-owned foreign firm and one joint venture were awarded MES treatment. The Chinese firms that also petitioned for Market Economy Treatment were rejected because they were unable to show they were not encumbered by the Chinese macroeconomic system (COM Reg No. 255/2000 2000). However, the joint venture and foreign firm operating under the same macroeconomic constraints were allegedly able to demonstrate their market independence from the overarching macroeconomic environment.

There are two very interesting aspects to the fluorescent lamps case in particular: how the ruling affected the final dumping margins, and what the ruling implied about the causal impact of the macroeconomic environment. First, using different methods of determining normal value resulted in very different final dumping margins for the firms involved. The export prices of all the firms operating in China were basically the same; they sold their products to the EU for similar prices. However, the wholly-owned foreign firm got to use its prices in the dumping calculation, and was subsequently not found guilty of dumping (*de minimus*). The joint venture had a constructed value measure

taken in which some but not all of its prices were used. It received a 39.2% dumping margin. The Chinese firms had normal value calculated using a price analogue and received dumping margins of 74.4% (COM Reg No. 255/2000 2000). This is a clear indication of the way in which the analogue method inflates the final dumping margins.

Second, this case is revealing for what it demonstrates about the way the Commission interprets the impact of the macroeconomic environment on the business decisions of firms. The Commission can rule that a foreign-owned firm operating in a "non-market or transitional economy" is market oriented. The Commission is able to suspend its belief about the distorting effects of the NME macroeconomic environment on the business decisions of foreign firms. It is not able to do the same for Chinese firms. Beliefs about the pervasive nature of state influence in NMEs continue to affect the way the Commission perceives and acts on information from NME firms. This suggests that the overall NME macroeconomic environment is not the decisive factor in the Commission's decisions. The Commission is not simply rejecting MES to firms because they are located in a non-market economy; it is rejecting Chinese firms in a non-market economy. It is not a function of the material conditions in NMEs, but of perceptions by the Commission about NMEs. This provides compelling evidence that lingering beliefs about the nature of NMEs are impeding the implementation of formal rule changes.

Why give Russia and China a partial status change, and deny them the benefits of the formal rule change? I argue that this is the perfect example of beliefs impeding formal rule changes (hypothesis #2). Although the formal rules guiding anti-dumping policy toward Russia and China have changed, the Commission has failed to act on those

formal rule changes. The Commission has used information requirements and time deadlines as excuses for continuing to treat China and Russia as NMEs.

In personal interviews with Commission officials, I asked about the timing and intent of the "hybrid" classification for China and Russia. Commission officials admitted that this formal rule change was a "political gift" to these countries which they were unprepared to administer under the present conditions.[124] The timing was a result of both domestic and international factors. First, Sir Leon Brittan, the former EU Commissioner in charge of trade policy, pushed for these rule changes because he wanted recognition for them before leaving office.[125] Other countries, such as Ukraine, were not considered in this first round of hybrid reclassifications because they lacked the political clout of Russia and China.[126]

Second, the EU thought these countries were about to get WTO membership. The Commission was concerned that it would be violating the spirit of the WTO negotiations by continuing to label these countries non-market economies (European Commission 1998a). After all, a non-market economy cannot by definition become a full member of the WTO.[127] Therefore, due to a confluence of internal EU conditions and perceived

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[124] Information confirmed in several interviews with officials in DG I and DG IA, European Commission. Brussels, Belgium, Fall 1999.

[125] Interview with Head of Unit in DG I, European Commission. Brussels, Belgium, Fall 1999.

[126] Ukraine has been particularly upset that Russia received the hybrid classification and it did not (Agence Europe 1998a). When asked about the EU's omission of Ukraine, a knowledgeable official in the European Commission admitted there were no empirical differences between the two countries in terms of level of economic reform. However Russia was more powerful than Ukraine, so Russia was removed from the list but Ukraine was not (Interview in DG IA, European Commission. Brussels Belgium, Fall 1999). This does not guarantee that Russia will receive preferential treatment, as this section has demonstrated.

[127] In consideration of its WTO obligations, the Commission has suggested that in cases involving other "non-market economy countries which [are] members of the WTO" (an apparent contradiction in terms) it investigate whether imports are "market oriented" and meet the criteria for Market Economy Treatment (Council Reg No. 2238/2000 2000). To further this end, the Commission has recently suggested granting the hybrid status to Ukraine, Vietnam and Kazakhstan as well (Europe Information Service 2000a).

international pressures, the Commission invented a hybrid status change as a way to forestall a complete status reclassification for these countries. It was, however, not willing or not able to make the cognitive adjustments necessary in order to implement this change.

Commission officials admit that the formal rule change was more in name than in substance, and that they had no intention of administering the more beneficial rules to Chinese and Russian firms.[128] One analyst laughingly referred to the rule change, saying it could not be applied to Russia since the industries were basically all "Stalingrad companies."[129] The formal rule change was structured to allow the Commission to interpret the laws as it saw fit. Making the formal rule change administrable on a case by case basis ensured that the Commission would have ample leeway to act according to its beliefs and perceptions of NMEs.

One analyst admitted that sometimes analysts and people in the field are asked to render decisions to further the political agenda of the Community. The hybrid status change for China and Russia was one such example. Even the Commission's yearly report said as much, when it explained that despite anti-dumping reform promises, "neither economy has evolved sufficiently to justify more concessions during anti-dumping probes" (Europe Information Service 2000b). The formal rules may have changed, but beliefs about the inherently antagonistic and economically threatening nature of Chinese and Russian firms have not.

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[128] Information collaborated in several interviews with Commission Officials in DG I, European Commission. Brussels, Belgium, Fall 1999.

[129] Interview with high ranking official in DG I, European Commission. Brussels, Belgium, Fall 1999.

Finally, while WTO membership might have factored in to the Commission's decision, it was not decisive in determining the timing or treatment of NMEs. There are many WTO members which are still treated as non-market economies by the EU, such as Kyrgyzstan, Georgia, and Albania. Moreover, China had to agree to continue being treated as a non-market economy under anti-dumping laws for the next 15 years as part of its WTO pre-accession concessions (Eckholm and Sanger 1999). Therefore, while international institutions might affect the EU's assessment of NMEs by interacting with other factors, international institutional safeguards alone cannot explain the Commission's treatment of non-market economies.

Officials in the agencies perpetuate the beliefs about the inherently threatening nature of NME trade through precedent setting cases focused not on actual imports from NMEs, but on the latent capacity in these countries (COM Reg No. 394/1996 1996; COM Reg No. 2997/95 1995; Council Reg No. 495/98 1998). In several cases the EU has reimposed duties on NME exporters because they had the capacity to export to the EU, even though they were not actually doing so at the time. Others countries do not get anti-dumping duties imposed on them because they *might* sell to the Community. European officials also reproduce these negative perceptions of NMEs by saying in speeches and public forums that NMEs have an unusual capacity and incentive to dump (Laurent 1996). Domestic interests perpetuate the beliefs by painting a picture of NME exporters as agents with both the capacity and institutional incentive to dump (Agence Europe 1997g; European Commission 2000c; Union des Confederations de l'industrie et Employeurs d'Europe 1996). In sum, there are many ways that beliefs about the unusual and threatening nature of trade with NMEs are kept alive in spite of contrary information.

In conclusion, part II has demonstrated that beliefs about NMEs can impede the implementation of formal rule changes (hypothesis #2). This section has examined the Individual Treatment test and Market Economy Status test as two major rule changes to NME anti-dumping laws. In both cases, the implementation of the laws has been affected by lingering beliefs about NMEs. European Commission beliefs about NMEs' domestically induced incentives to dump hinder the implementation of these laws. As predicted, the beliefs most resistant to change have been those held against countries for which the beliefs were held with the greatest certainty: China and Russia. As the orthodox core of the Communist system, the EU held beliefs about the threatening nature of their trade with the most certainty of all the NMEs. Therefore, a belief based hypothesis would predict that beliefs about these countries would be most resistant to change, even direct formal rule change.

Beliefs about the threatening nature of trade with NMEs act as information discounters. The Commission often does not synthesize or act on all of the information actually provided by the NME, because this disconfirming information is discounted by the Commission. The Commission is able to look at the same objective economic conditions and render different determinations based on the involvement of NMEs or "market industries." As evidence of this, the Commission is able to overlook factors in the overarching macroeconomic environment in cases involving foreign firms in order to grant them special treatment, but is unable to overlook these same factors in cases involving NME firms. This provides compelling evidence that empirical conditions and

interest based accounts of the Commission's actions are insufficient to explain its treatment of NMEs.

As predicted, international contracting is necessary but not sufficient in order to explain the treatment of NMEs. Antagonistic beliefs are resilient even to the hypothesized cooperation inducing effects of international institutions. Therefore, an analysis of the causal effects of beliefs is vital to understand both the Commission's resistance to changing its beliefs, and the continuing use of these beliefs by the Commission to render anti-dumping decisions.

This conclusion about the causal role of beliefs is not based on an analysis of outcomes, per se. It is based on an analysis of the process of administering the case. The process of administering anti-dumping laws to NMEs remains the same in spite of formal rule changes, which should have changed the process. While the outcome remains trade protection, this is not the emphasis of the analysis. The emphasis is on the way beliefs perpetuate a discriminatory interpretation of NME interests and incentives in anti-dumping cases. As such, the process of administering the cases provides compelling evidence of the causal effect of beliefs on trade policy.

Part III: Reclassifications: Testing the Theory of Belief Change

In the previous section I explained how belief stasis has impeded the implementation of formal rule changes in anti-dumping cases involving NMEs. The focus in that section was on beliefs held with great certainty against orthodox, core Communist countries. According to a belief based hypothesis, beliefs held regarding those countries should be the most resistant to change, and should linger the longest.

In this section, I turn to countries against which the EU held Cold War beliefs with less certainty. This section examines countries classified as deviant satellites, orthodox satellites, and deviant core countries. It tests whether belief change does in fact follow a logic directed by levels of belief certainty. By examining cases of country reclassification—reclassified from non-market economies to market economies—I test whether belief change theory can explain the EU's anti-dumping policies. I compare belief change hypotheses and material interest based hypotheses in order to test the relative efficacy of the two approaches. I demonstrate that material interests or hypotheses based on material economic or political conditions cannot explain the EU's reclassifications of NMEs. Furthermore, I show that hypothesis #4, that beliefs held with greater certainty will change before beliefs held with less certainty, is highly effective in predicting and explaining the EU's decisions to reclassify certain non-market economies.

Why Reclassify? Political and Economic Benefits for NMEs

Reclassifications are desirable for both political and economic reasons. Politically it is an affirmation of the reforms in NMEs and the first step toward reintegration in the international political economy. Economically it will improve the fairness of the application of anti-dumping laws by no longer subjecting NMEs to the analogue country method of determining normal value. Using the actual prices in a reclassified NME instead of price proxies would allow the exporting firms to demonstrate they had a comparative advantage in the production of certain commodities, and to develop their own international export niches. Using the actual prices in a NME should decrease both the size and incidence of protection against NME exports.

The European Union has been much more willing to reclassify NMEs than the United States. European Association Agreements have facilitated the reclassification of most of the countries in Central and Eastern Europe. The GDR is the exception, having been unofficially reclassified when it unified with West Germany in 1990 (Council Reg No. 2684/90 1990). There are no official market criteria used in the decision to reclassify, as are used by the United States. Once the EU thinks a country is ready to begin preliminary negotiations for European Agreements, the EU generally thinks a country is ready for reclassification.

Poland, Hungary, Slovakia, and the Czech Republic were removed from the list of state trading countries in February 1992, following the conclusion of Europe agreements on trade related matters and prior to the conclusion of Association Agreements (Council Reg No. 517/92 1992).[130] As of 1994, Bulgaria and Romania were no longer included on the list of non-market economies (Council Reg No. 519/94 1994; Council Reg No. 3382/94 1994; Council Reg No. 3383/94 1994). Latvia, Lithuania and Estonia signed Europe agreements on trade related matters in 1995, and as of 1998 were no longer on the list of NMEs (Council Reg No. 905/98 1998; European Community 1998a; European Community 1998b; European Community 1998c). Interim Agreements on trade and

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[130] See Poland (Commission Decision 522/92/ECSC 1992; Council Reg No. 518/92 1992; Council Reg No. 3492/93 1993); Hungary (Commission Decision 523/92/ECSC 1992; Council Reg No. 519/92 1992; Council Reg No. 3491/93 1993); and Czech and Slovak Republics (Commission Decision 524/92/ECSC 1992; Council Reg No. 520/92 1992).

Non-market economy or state trading countries are covered under Council Regulations (EC) No. 519/94, which amends Regulations (EEC) Nos 1765/82, 1766/82, and 3420/83, see Council Reg No. 519/94 1994. Rules for imports from non-EU members that are not NMEs are covered under Council Regulation (EC) No. 518/94, which amends Regulation (EEC) 288/82, see Council Reg No. 518/94 1994. Both of these were amended with Council Regulation (EC) No. 384/96 in 1996, see Council Reg No. 384/96 1996.

trade related matters do not include reclassifications.[131] However, they have facilitated negotiations for Association agreements in some cases, and have been helpful in starting reclassification discussions.

Europe agreements on trade or preliminary European Association Agreements do not protect countries from anti-dumping cases. The EU retained the right to apply anti-dumping laws to these reclassified NMEs up until they become full members of the EU.

> [The European Coal and Steel Committee] insists that during the transitional period required to achieve the objective of economic liberalization, all parties should try to maintain the conditions of an orderly market which conforms with the provisions of the ECSC treaty. Any unfair practices which caused an abrupt change in the present level of Central and East European coal and steel imports into the community during this period would oblige community producers to have recourse to the means of defense (countervailing and anti-dumping measures) provided for by GATT and ECSC regulations (European Coal and Steel Committee 1991, recital 5).

By not providing economic criteria for reclassification, the European Commission has ensured that it will maintain full discretion over which countries are reclassified as market economies, and which ones will continue to be labeled non-market economies. It also allows the Commission adequate leeway to incorporate political as well as economic criteria into its reclassification decisions. This wide margin of discretion allows the Commission to act on its beliefs and perceptions about the NMEs in rendering its reclassification decisions. As such, the EU is a good case to test whether and how beliefs affect trade policy decision-making, because there is institutional room for beliefs to play a causal role.

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[131] For example, Azerbaijan, Armenia, Uzbekistan, and Georgia have all signed Interim Trade Agreements, but not been reclassified. See Interim Agreements in OJL 129, 21 May 1997; OJL 43, 14 February 1998; and OJL 285, 22 October 1998.

Predicting Reclassifications: Material Condition Hypotheses

There are no legally binding economic criteria for NME reclassifications on which to base material condition hypotheses. However, since the anti-dumping laws were developed "by reason of the economic system of state-trading countries," the pace and breadth of economic reforms in these countries should be solid material predictors of reclassification (Council Reg No. 1766/82 1982). Economic material conditions would predict that those countries that had enacted economic reforms with the greatest speed and scope should be reclassified first. Hypotheses based on economic material conditions alone would predict that once NMEs had reached a level of economic freedom comparable to other "market oriented" trading partners, the EU would reclassify those NMEs as "market economies." If such a hypothesis were to hold true, this would undermine hypothesis #1 that beliefs do affect the interpretation of trade policy.

As discussed in the United States case (chapter 5), measures of economic freedom do not bear out the economic material hypotheses. Using the *Heritage Foundation*'s composite of ten indicators of economic freedom, table 6-8 ranks NME countries with other developing countries in 1995 and 2000.[132] In 1995, China, Ukraine, Russia, and all of Central and Eastern Europe were more economically free than India, a supposedly

[132] Factors in the index of economic freedom include: trade policy, fiscal burden, government intervention, monetary policy, foreign investment, banking/finance, wages/prices, property rights, regulations, and black market activities. The freedoms are each ranked on a scale of 1-5 with 1 being the most free and 5 being the least free. The economic freedom index is an average of these figures. See www.heritage.org/index/.

Table 6-8: Index of Economic Freedom

1995			2000		
County	**Score**	**Rank**	**County**	**Score**	**Rank**
Korea	2.15	13	Hong Kong	1.3	1
Czech Rep.	2.2	14	Czech Rep.	2.2	22
France	2.3	16	Estonia	2.2	22
Estonia	2.35	18	Germany	2.2	22
Malaysia	2.4	18	Denmark	2.25	27
Italy	2.5	21	Italy	2.3	28
Spain	2.5	21	Korea	2.4	33
Sweden	2.65	24	Spain	2.4	33
Portugal	2.7	27	Peru	2.45	36
Argentina	2.75	30	France	2.5	37
Slovakia	2.8	31	Hungary	2.55	41
Turkey	2.8	31	Latvia	2.65	44
Mexico	2.85	33	Malaysia	2.7	46
Colombia	2.9	34	Turkey	2.75	49
Hungary	3	41	Poland	2.8	53
Greece	3	41	Philippines	2.85	58
Pakistan	3.15	52	Lithuania	2.9	61
Ecuador	3.2	54	Mexico	3	74
Philippines	3.2	54	Slovakia	3	74
Brazil	3.3	59	Slovenia	3	74
Poland	3.3	59	Armenia	3.1	84
Russia	3.4	69	Romania	3.3	94
Indonesia	3.4	69	Bulgaria	3.4	100
Bulgaria	3.5	74	China	3.4	100
Bangladesh	3.6	77	Egypt	3.5	110
Albania	3.6	77	Brazil	3.5	110
China	3.6	77	Croatia	3.5	110
Romania	3.6	77	Indonesia	3.5	110
Belarus	3.7	85	Kyrgyz	3.6	116
Ukraine	3.7	85	Ukraine	3.6	116
India	3.8	89	Kazakh	3.7	122
Nicaragua	4	94	Russia	3.7	122
			Albania	3.7	122
			Bangladesh	3.75	126
			India	3.8	127

Note: 1) No 1995 data available for Lativa, Lithuania, and other Soviet Republics

Source: The Heritage Foundation, *The Index of Economic Freedom*. www.heritage.org/index/

market oriented trading partner with the EU. Since the EU did not consider the economic problems with the Indian economy an impediment to treating it as a market economy in 1995, there should be no economic reason to continue to treat these countries as non-market economies.

However, by 1995 Poland, Hungary, the Czech and Slovak Republics, Bulgaria and Romania had been reclassified but not the rest of the NMEs. Estonia ranked higher in terms of economic freedom than Italy, Spain, Sweden, and Portugal in 1995, but it was not reclassified. Russia was more economically free than Bulgaria, but was not reclassified either. Even in 2000, Russia, China, Ukraine, Armenia, and Kyrgyzstan were all more economically free than supposedly "market oriented" European trading partners, but they were still classified and treated as non-market economies. Material economic conditions cannot explain why the EU treats NMEs differently than other developing countries. Material economic conditions are also unable to predict which NMEs will be reclassified first.

Political factors are often cited as very important elements of the reform process in non-market economies (European Union 1995). At the European Council's 1999 meeting in Cologne, the EU reaffirmed that its number one goal for Russia was the consolidation of a democratic political system guided by rule of law (European Council 1999, 9). Countries with lower levels of political freedom may be able to exploit their workers or redistribute social welfare costs in order to realize some types of unfair trade advantages. As such political material conditions may be important factors affecting the manner in which the Commission grants reclassifications. Looking at political material

conditions, one would hypothesize that more democratically oriented countries would be reclassified before less democratically oriented countries.

Table 6-9 shows that level of political freedom or democratization, as measured by Polity IV Data, cannot explain the pattern of EU reclassifications of NMEs.[133] In 1993, Russia, Albania, Ukraine, the Baltics, and even Kazakhstan were more democratic than Indonesia, a country not penalized by the EU for its economic or political system. China has the same score as Indonesia in terms of level of democratization. Looking at the non-market economies alone, 1993 data would suggest that Lithuania, the Czech Republic and Hungary would be the first three countries reclassified. Slovakia should have been reclassified after Bulgaria, and Latvia, if the EU was considering political material conditions. But this did not happen. Lithuania and Latvia were in the third wave of reclassifications, and Slovakia was in the first wave.

The 1995 data suggest that Lithuania, Latvia and Estonia should all have been reclassified before Romania. In reality, none of the Baltics were considered "market economies" in 1995, while Romania and Bulgaria had just been reclassified. Moreover, Russia and Ukraine should have been reclassified also if they were objectively compared to other developing countries. Ukraine was at the same level of democratization as South Korea, and Russia was more democratic than Singapore and Malaysia. In sum, political material conditions cannot predict or explain the EU's treatment of NMEs.

Combining political and economic scores of freedom within the NMEs, one is also unable to predict the order of NMEs to be reclassified (table 6-10). According to

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[133] The Polity IV data is a combination of autocracy and democracy rankings to arrive at a level of democratization or "polity." 20 point scale from +10 full democracy to –10 full autocracy. See Polity IV Project, 2000.

Table 6-9 : Comparison of Levels of Democratization

Country	Polity score 1993	Country	Polity score 1995
Hungary	10	Lithuania	10
Czech Republic	10	Czech Republic	10
Lithuania	10	Hungary	10
Poland	8	India	9
Latvia	8	Poland	9
Bulgaria	8	Bulgaria	8
India	8	Latvia	8
Slovakia	7	Slovakia	7
Belarus	7	Taiwan	7
Taiwan	7	Ukraine	6
Estonia	6	Estonia	6
Ukraine	6	Korea, South	6
Korea, South	6	Kyrgyzstan	5
Romania	5	Albania	5
Albania	5	Romania	5
Kyrgyzstan	5	Russia	4
Russia	4	Malaysia	3
Malaysia	4	Belarus	0
Singapore	-2	Singapore	-2
Kazakhstan	-3	Kazakhstan	-4
China	-7	China	-7
Indonesia	-7	Indonesia	-7

Note: Scores range from 10 (complete democracy) to -10 (complete autocracy)

Source: Polity IV Project. 2000. Policy IV Dataset. [Computer file; version p4v2000]. College Park, MD: Center for International Development and Conflict Management, University of Maryland.

Freedom House's assessment of political and economic freedoms in non-market economies, Poland, the Czech Republic, and Hungary should have been the first countries reclassified. This was the case. These countries were the first tier to be reclassified. However, Slovakia was also in the first tier of countries and its political/economic freedom index shows it is behind Lithuania, Estonia, and Latvia. The Baltics should have been reclassified before Slovakia, and they should have been the second major tier of countries reclassified. This did not happen. The Balkans were reclassified before the Baltics, in spite of Bulgaria and Romania's relatively low economic/political freedom scores.

Yugoslavia has lower scores than most of the NMEs, but it was never classified as a non-market economy and so is not subjected to NME anti-dumping regulations. Russia and Ukraine have higher economic and political freedom scores than Albania, which is presently engaged in EU negotiations for reclassification. Combinations of political and

Table 6-10: Index of Political and Economic Freedoms Combined

Country	Score	Country	Score
Poland	3.11	Croatia	8.02
Czech Republic	3.50	Russia	8.42
Hungary	3.67	Ukraine	8.64
Slovenia	3.86	Albania	8.88
Lithuania	4.08	Armenia	9.00
Estonia	4.56	Kyrgyzstan	9.46
Latvia	4.89	Kazakhstan	9.96
Slovakia	5.75	Azerbaijan	10.50
Romania	6.77	Yugoslavia	10.83
Bulgaria	6.98	Belarus	12.69
Macedonia	7.11	Uzbekistan	12.69
Georgia	7.75		

Scores: 2-14, 2 is most free and 14 is least free.
Source: Freedom House, 2000. *Nations in Transit, Country Reports.* www.freedomhouse.org/research/nitransit.

economic freedom scores cannot predict the order of NME countries to be reclassified.

In sum, this section has shown that material conditions defined in economic, political, or economic/political terms cannot explain the EU's behavior toward NMEs in terms of anti-dumping regulations. Of the measures of economic freedom and democratization compiled by three different sources (Freedom House, Polity IV, and the Heritage Foundation), none can explain the dynamic of country reclassifications, nor the continued discrimination against NMEs. NMEs are not less democratic or more economically centralized than other developing countries with which the EU has "normal" trade relations. Demonstrating that material conditions cannot explain Commission behavior leaves room for a belief based hypothesis (hypothesis #1, and hypothesis #3).

Reclassifications: Can degree of belief certainty predict belief change?

Reclassifications are a good test of a theory of belief change. In order to be reclassified a country must have effected sufficient economic and political reforms for the Commission to consider it a "developing market economy." Therefore, reclassifications are a sign that the European Union has changed or begun to change its perceptions about a given NME. If beliefs affect anti-dumping trade policy, one should be able to coherently explain the reclassifications by examining the causal role of beliefs. The EU is a better case than the United States for testing a theory of belief change, because the EU has reclassified a number of countries. As such, the EU provides more variation in the independent variables, especially belief certainty, and the dependent variable, here operationalized as reclassifications, than the United States.

According to the logic of belief change set out in this project, beliefs held with less certainty will be more likely to change before beliefs held with greater certainty (hypothesis #4). Certainty levels affect the relative resistance of beliefs to change. In this case, beliefs about the inherently antagonistic nature of NMEs and the threat they pose to trade should change first against countries for which this belief was held with the least certainty, and last against countries for which this belief was held with the most certainty.

Degree of belief certainty is a function of internationally determined interests and domestically determined political and economic incentives. It is easier to change the beliefs that resulted from internationally determined interests than domestically determined incentives. Internationally determined interests are clearly defined and changes to them can be easily recognized—core/periphery. In contrast, domestic institutional incentives include complex combinations of political and economic institutions. As such, domestic institutional incentives and changes to them are much more difficult to specify. By logical extension, it is easier to change beliefs about satellite states before core states, and easier to change beliefs about economically and politically deviant states before economically and politically orthodox states. Satellites have less interest in harming the West than core countries. Economically and politically deviant countries have fewer domestic incentives to harm the West through trade.

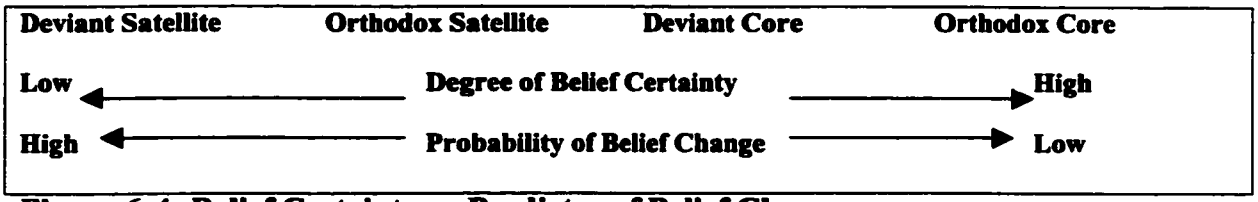

Figure 6-4: Belief Certainty as Predictor of Belief Change

The reclassification predictions based on a model of belief certainty are different from the predictions generated by material economic and political conditions. A belief change hypothesis based on degree of belief certainty specifically predicts that Poland, Hungary, the Czech Republic and Slovakia should be reclassified first. Romania, Bulgaria, Albania and Vietnam should be reclassified second. Latvia, Lithuania, and Estonia should be reclassified third. China, Russia, Ukraine, and other orthodox core countries should be reclassified last.

As demonstrated in the previous section, economic and political condition hypotheses do not predict this order of country reclassifications. Estonia, Latvia, and Lithuania are all more market oriented than Slovakia, but they were not reclassified before Slovakia. Estonia was more market oriented than Poland, but it was not reclassified in the first tier of countries. Poland was less market oriented than all the Baltics, but was the first country considered for reclassification.

Of these fourteen country specific hypotheses, only Albania and Vietnam have not followed according to predictions. Albania and Vietnam have not been reclassified before the Baltics. However, these "outliers" are actually reminders of the role that information flows have in facilitating belief change. The original model of belief change suggested that changes in beliefs were a function of information changes discounted by belief certainty. Information limitations are certainty important in considering the cases of Vietnam and Albania.

Due to geographic distance, lack of iterated trade interactions, and the absence of institutional linkages between the EU and Vietnam, there is little information exchange going on in order to change EU beliefs about Vietnam. As such, before the EU does

change the way it treats Vietnam, there will need to be some substantive information flow changes. Conversely, due to relative geographic proximity, conclusion of trade agreements, and present Europe agreements negotiations, information flows are being facilitated between Albania and the EU. The EU is building institutional linkages and encourages iterated interactions. As such, one would predict that Albania's reclassification would be forthcoming.

The logic of belief change helps to explain why the EU does not base its reclassification decisions on an evaluation of the objective economic conditions in NMEs alone. Beliefs about the interests and incentives of NMEs are sticky and resist change. The beliefs about NMEs act as information discounters, minimizing the impact of new contrary information about their interests and incentives. All NMEs are not reclassified even though they meet the levels of economic and political development achieved by other "market oriented" EU trading partners because lingering beliefs about them affect policy change. Most NMEs are more market oriented than India and more politically free than Indonesia, two countries treated as market oriented developing countries. However, NMEs are not reclassified based on an objective assessment of relative international levels of economic and political development. Belief stickiness helps make sense of the contradictory treatment of NMEs and other developing countries.

Interview data supports this assertion of the role of belief stickiness in affecting EU decision-making. In an interview with a European Commission official, he explained his theory of crisis induced change. The official said that it would take a crisis to bring about a change in attitude toward Ukraine and Russia, because the EU is only willing to

think about change when faced with such a break down of the present system.[134] This official was unknowingly explaining the causal impact of beliefs on EU decision-making. Just as Goldstein and Larson theorized about the need for a crisis in order to effect belief change, the EU official was saying as much. The official argued that crisis in the form of a threatened economic breakdown or regime reversal in Ukraine or Russia might be necessary in order to prompt EU belief change about these countries. Since these countries are orthodox core countries, according to the belief based theory, these countries will be most resistant to belief change and as such might require a complete shake up of the system in order to effect belief change.

The Commission is aware of the contradictions in its trade policies. In an interview with a Deputy Head of Unit at the Commission, the official acknowledged that Estonia was more market oriented than some current EU members.[135] However, the objective economic criteria were not sufficient to change EU attitudes toward the country. All of these seemingly contradictory practices are logical if one considers the degree to which belief certainty affects EU decision-making in this issue area.

Finally, perhaps belief certainty and geographic proximity are interactive factors affecting the readiness of the EU to reclassify certain countries. Some might contend that because of geographic proximity, the EU would be more hesitant to reclassify NMEs. Countries that are less politically or economically free and are closer to the EU could have negative spill over effects on the EU. Perhaps the EU is willing to treat India

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[134] Interview with Deputy Head of Unit in DG IA, European Commission: Brussels, Belgium, Fall 1999.
[135] Interview with Deputy Head of Unit, DG I., European Commission: Brussels, Belgium, Fall 1999.

favorably despite its low level of economic freedom because India is relatively far away and thus has fewer potential negative externalities.

The empirical evidence does not fully support this assertion. Croatia and Bosnia are not considered non-market by the EU. As part of the former Yugoslavia they were never labeled non-market economies, and since gaining independence they have been treated as regular market oriented developing countries. Bosnia has an economic freedom score of 4.4 on the Heritage Foundation's *Index of Economic Freedom, 2000.* This is lower than Russia (3.7), China (3.4) and Ukraine (3.6) (see table 6-8). However, Bosnia is "market oriented" and the others are NMEs, according to the Commission. Similarly, Croatia is less market oriented than China, but China is a NME and Croatia is not. In spite of the low levels of economic freedom of Croatia and Bosnia and their geographic proximity to the EU, which allows for potential spillover effects, these countries have not experienced discriminatory treatment by the Commission with regard to anti-dumping laws. Geographic proximity might play a role in the Commission's decision-making, as was tentatively supported in the statistical analysis in this chapter. However geographic proximity is not decisive in explaining either when a country is reclassified, or who gets reclassified.

In sum, thinking about the dynamics of belief change in terms of certainty with which initial beliefs are held does account for the differential treatment between NMEs and other similarly situated developing countries. It also explains why certain NME countries have been reclassified before others. Belief certainty yields both predictive and explanatory power over this issue area. By focusing on belief certainty one is able to predict the order of countries to be reclassified. One is also able to explain why the

dynamic of reclassification follows a logic slightly contradictory to what materialist hypotheses would predict. The evidence from an examination of NME country reclassifications supports hypotheses #1 and #4. Beliefs do affect the Commission's treatment of NMEs, and belief certainty affects the way the Commission perceives and responds to changes in these countries.

Lingering Beliefs against Reclassified Countries

A country reclassification signals that the EU is changing its beliefs about a given NME. However, it would be misleading to argue that once a country is reclassified, the EU is able to disregard all previously held beliefs and see the reclassified NME as any other developing country. Beliefs do not change quickly, and it will take time and iterated interactions in order to completely change long held beliefs. Belief change is a process. Reclassifications are one important step in the process of belief change. As with the U.S. case, the EU continues to have some lingering doubts about the domestic institutional incentives of reclassified NMEs. At times these lingering beliefs affect the implementation of anti-dumping laws. A few examples will demonstrate the lingering effects of Cold War beliefs even in the face of formal rule change.

There have been several cases in which the Commission has reverted to NME practices in administering anti-dumping laws against reclassified countries. At times, the Commission has chosen to disregard information supplied by former NME exporters and instead construct a normal value for a commodity under investigations (Council Reg No. 603/1999 1999; Council Reg No. 2320/97 1997). This is the standard in NME cases but unusual in market economy cases. For example, in a case against *Zinc from Poland*

(1997), the Commission constructed a normal value for the commodity for part of the time and used actual price information from the exporter for part of the time (COM Reg No. 593/97 1997). The Commission questioned the reliability of the information provided, due to overarching concerns about the Polish macroeconomic environment. The Polish Foreign Minister protested the way the anti-dumping laws were applied in this case, and the manner in which the Commission collected and rejected information (Agence Europe 1997b). However, the Commission's practices, while unusual in market economy cases, are legally permitted.

The Commission has also used single country-wide rates instead of individual dumping margins in anti-dumping cases against reclassified NMEs. As was explained in the section on Individual Treatment, NMEs are subjected to single country-wide dumping margins while market economy firms receive individual dumping margins. The single country-wide margin prevents the central government in a NME from channeling exports through the firm with the lowest dumping margin. In the case of *Steel Pipes from Hungary, Poland, Russia, the Czech Republic, Romania, and the Slovak Republic (1997)*, Polish, Czech, and Romanian exporters were assigned single country-wide rates (Council Reg No. 2320/97 1997). This is the norm in NME cases but not market economy cases. The EU questioned the market independence of the exporting firms in each of the countries, and penalized them with former NME measures. This type of practice is very unusual in anti-dumping cases against typical market economies.

Residual tension remains between the European Commission and the reclassified NMEs industries. The former NME countries have questioned the objectivity of anti-dumping law applications in particular, and the Commission is still wary about the export

capacity of these countries. To "allay certain fears" between anti-dumping officials and representatives of Central and Eastern European industries, Sir Leon Brittan hosted a seminar entitled "Problems of Anti-dumping with Regard to Central and Eastern European Countries (CEEC)" (Agence Europe 1997e). This is interesting because the seminar was framed as a medium for addressing fears and perceptions about the parties involved in trade relations.

In the seminar Sir Brittan stressed that anti-dumping measures against CEEC were "legitimate and perfectly normal instruments of trade policy" and that there was "no question of conducting some sort of industrial policy" nor were any countries in the group singled out (Brittan 1997b). However he also legitimized the interpretation of anti-dumping laws against CEEC by highlighting various problems in these countries, such as state aid and competition problems, which make it necessary for the EU to maintain its current use of anti-dumping laws (Agence Europe 1997c).[136]

In spite of some setbacks, the Commission is generally administering anti-dumping laws against reclassified countries in a fair manner. This does not mean that there is less final protectionism against reclassified countries. Reclassified countries are still subjected to a high number of anti-dumping cases. But the *process* of administering

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[136] To placate Central and Eastern Europe (CEE) regarding the number of cases filed against them, the Commission proposed more preferential treatment in the penalty phase of anti-dumping decisions. Part of the European Council of Essen's pre-accession strategy for the countries of CEE involved the Commission compromising on price undertakings for CEE countries in anti-dumping cases (Agence Europe 1997c; Brittan 1997b). This means that instead of levying anti-dumping duties on imports from CEEC, the Commission would be receptive to CEEC overtures to manage prices or quantities in order to remove the injurious effects of their imports on EU domestic industries. In 1997 the EU promised to improve and expand the use of these informally negotiated resolutions to anti-dumping cases. This includes informing the countries of impending anti-dumping cases before they reach the press in order to try and resolve issues informally. While unwilling to remove anti-dumping trade protection against these countries altogether, the EU is willing to negotiate trade resolutions. (Interview with official in DG I, European Commission, Brussels. Fall 1999).

the anti-dumping laws to these countries has changed. While trade protection remains, the trade protection generally follows the rules as applied to other developing market economies.

For example, in the cases of *Hot-Rolled Steel from Romania (2000)* (Commission Decision 1758/2000/ECSC 2000), *Ropes and Cables from the Czech Republic (2001)* (COM Reg No. 230/2001 2001), *Urea from Poland (2000)* (European Commission 2001b), *Steel Ropes and Cables from Poland and Hungary (1999)* (COM Reg No. 362/1999 1999), and *Hardboard from Bulgaria, Estonia, Latvia and Lithuania (1999)* (Council Reg No. 194/1999 1999), all of the defendants were found guilty of dumping. But in all these cases, the process of administering the case was normal, in the sense that the rules were applied to former NMEs the way they are applied to any other developing market economy. As already stated, this project focuses more on the process of administering cases than the outcome of those cases. Therefore, a change in process is a strong indicator of a change in beliefs about former Communist countries.

In sum, Part III has demonstrated that belief change does follow a logical progression according to degree of initial belief certainty. Beliefs function as information discounters, potentially delaying the Commission from changing its policies toward NMEs. But, it is possible for the Commission to change the way it treats NMEs. Not only is it possible, but it can be predicted. Reclassifications are a good example of the process of belief change, in that they simultaneously demonstrate that beliefs change in halting, punctuated steps. Understanding the dynamics of belief change and the lingering effects of beliefs can help make sense of the Commission's seemingly contradictory trade policy practices.

Conclusion

This chapter has demonstrated three things: first, NMEs are discriminated against; second, beliefs affect the manner in which the EU applies its anti-dumping laws to NMEs; and third, belief change follows a logical progression predicted in part by degree of belief certainty. I will briefly review the findings from each of the sections.

The Commission employs a method of determining normal value in cases against NMEs which all but predetermines the finding of dumping. This analogue country method was devised during the Cold War, at a time when trade with non-market economies was perceived to be different and threatening. Trade with NMEs was threatening due to the internationally determined antagonistic interests of non-market economies, and the domestically determined institutional incentives that encouraged dumping. The combination of interests and incentives was viewed by the Europe as particularly threatening to its domestic economic interests. As such, extraordinary forms of trade protection in the form of special anti-dumping rules were developed. These extraordinary rules based on anachronistic assumptions about NMEs continue to affect the EU's application of current trade laws.

The use of the analogue country method is only one example of the extraordinary trade safeguards in place against NME trade. Exceedingly short time deadlines for submission of information, impossible information requirements, and overarching negative presumptions about the nature of NMEs all result in unusual levels of trade protection. It is not simply the letter of the law that discriminates against trade with NMEs, it is also the way the Commission interprets the circumstances of the case. These

interpretations are systematic, and reflect enduring beliefs about the threatening nature of trade with non-market economies.

This chapter has demonstrated that material conditions cannot predict or explain why NMEs are treated differently from other developing countries (hypotheses #1). Developing countries used as analogues for non-market economies are not more politically free, or less corrupt, or more economically liberal than NMEs. Nor do non-market economies and other developing countries have such different export compositions to explain differential trade treatment. Levels of economic development or political democratization also cannot predict the order of NMEs reclassifications by the Commission (hypothesis #4). In sum, materialist explanations, focused on political or economic factors, cannot account for EU behavior toward NMEs relative to other developing countries, or among non-market economies.

However, belief based theories can explain the EU's method of administering anti-dumping laws. Belief based theories can explain the effects of both belief stasis and belief change on anti-dumping policy. Beliefs are sticky. Beliefs formed in one time period can continue into subsequent time periods even when the initial circumstances that engendered the creation of the belief have changed. Beliefs can act as information discounters, minimizing the impact of new contrary information. European trade officials are "disproportionate information processors." They fail to assimilate new, contrary information about NMEs. This explains why they fail to acknowledge the level of economic reform effected by many of the NMEs.

Belief stasis explains why formal rule changes, such as individual treatment and the market economy status tests, have not yet benefited NMEs (hypothesis #2). The

Commission's beliefs about the incentives and intentions of NMEs cause it to interpret the rules so as to circumvent formal rule changes. Formal rules change but the outcomes do not because lingering beliefs about NMEs, especially the orthodox core countries, stymie the implementation of the rule changes.

Belief based theories can also explain the dynamics of belief change. In support of hypothesis #4, the EU has reclassified countries according to a logic of belief change based on the degree of certainty with which beliefs were held. Beliefs held with the least certainty are more likely to change before beliefs held with greater certainty. If belief certainty is a function of internationally determined interests and domestically derived incentives, then satellites should be reclassified before core countries, and domestically deviant countries should be reclassified before domestically orthodox countries. This is exactly what we have seen transpire. The EU has reclassified countries against which it held Cold War beliefs with the least certainty first, and has been hesitant to reclassify or even improve the treatment of countries against which it held Cold War beliefs with the greatest certainty.

Finally, this chapter has demonstrated that the EU has taken a somewhat different approach to NMEs than the United States. As predicted (hypothesis #5), the EU has been willing to reclassify more countries, and do it earlier, than the United States. The EU and United States still treat orthodox core countries the same. However, the EU has a wider range of responses to the satellite countries and deviant core countries than the United States. The Europeans have been more receptive to the changes in Central and Eastern Europe than the United States, and more willing to act on those changes. Belief certainty

theory predicted that the EU would change its beliefs about NMEs before the United States, and this is exactly what has materialized.

The EU case helps to demonstrate that beliefs are not epiphenomenal. Beliefs are not simply a function of bureaucratic idiosyncrasy or bureaucratic inertia in a single country. Beliefs based on the same international and domestically determined factors matter in both the U.S. and EU cases. Belief change follows a similar logic in both cases. I believe this is compelling evidence that beliefs about non-market economies do affect the implementation of both U.S. and EU trade policy. Comparing the two cases provides a more systematic approach to the investigations of the causal role of beliefs. In the conclusion I will conjecture on the possible effects of beliefs about NMEs and former NMEs on the ability of these countries to reintegrate into the international political economy.

Chapter 7: Non-market Economies and the International Trading System

Introduction

Russia is learning an interesting trade lesson from the United States and European Union. Russia recently accused the United States of dumping dark meat chicken on the Russian market, and has initiated an anti-dumping case against U.S. poultry imports. In the U.S. market, there is greater demand for white meat, and it sells at a price premium to dark meat. U.S. producers sell the excess dark meat at low prices around the world. However, it costs the same amount of money to produce dark meat as white meat chicken. Therefore, according to anti-dumping definitions used by the United States, dark meat and white meat are like commodities and should be similarly priced. Remember, quality and production process differences are not taken into consideration when determining the normal value of products from NMEs. Since the U.S. sells white meat on its home market for substantially more than its export price of dark meat, according to its own trade laws it is guilty of dumping.

U.S. sales abroad have also markedly increased. Domestic chicken consumption has increased over the past five years, causing domestic producers to raise more chickens, thereby increasing the amount of domestically unwanted dark meat for sale on the international market. This increase in export capacity combined with low cost pricing technically constitutes dumping (Interfax News Agency 2001d; Interfax News Agency 2001e).

This example sounds ridiculous. How could quality differences, domestic supply/demand factors, and preference differences not be considered in determining if a commodity is being dumped? It is easy to see preference differences or quality differences between white and dark meat chicken, and to conclude that there should be a price differential. The same logic should hold true for commodities like steel, magnesium, shoes, hairbrushes, and lamps as well. It is easy to see why changes in domestic demand for a product might affect international export volumes. This is exactly what happened to transitional economies when their previous domestic market and trade relationships collapsed in 1991. When the tables are turned and the absurd manner of interpreting anti-dumping laws is applied to the United States, it is easy to see why the laws are biased. However, it is not as easy to see the absurdity of the laws as applied to NMEs, because beliefs about them continue to cloud perceptions about their economic activities.

In this chapter I summarize the main findings of this project. I reiterate the utility of considering the causal role of beliefs in the application of trade policy. I conclude with a discussion of three policy implications, focusing on how beliefs about non-market economies may affect their ability to integrate into the international political economy.

Summary of Findings

A two part puzzle motivated this project. First, why do the United States and European Union continue to discriminate against imports from non-market economies, despite their apparent commitment to facilitating reforms in these countries? Second, why are U.S. and EU trade agencies failing to implement changes to the formal trade

rules as applied to NMEs in most cases? I think I have convincingly demonstrated a role for beliefs in explaining both of these puzzles. In addressing these puzzles, I have demonstrated four things. First, NME exports are discriminated against. Second, traditional political economy theories are unable to explain patterns of trade protection against NMEs. Third, beliefs affect the implementation of trade policy, and can impede the actualization of formal rule change. Fourth, there is a coherent logic to belief change based on degree of belief certainty. I will address each of these in turn and relate them to the original research puzzle.

First, I have demonstrated that in spite of World Bank and Western government assertions about the fairness of anti-dumping laws, non-market economies are systematically discriminated against. This is an important policy finding. While NMEs repeatedly condemn the discriminatory trade practices of the United States and the European Union, their accusations lack teeth because they often appear ad hoc and unsubstantiated (Financial Times 1999). Demonstrating systematic policies of trade discrimination supports NME contentions that the West needs to reform both the letter of its trade laws and the manner in which they are applied to NMEs.

Second, I have shown that while traditional political economy theories are fairly good at explaining patterns of trade protection against imports from most countries, they are not powerful predictors of or explanations for patterns of trade protection against non-market economy imports. NMEs evidence distinct patterns of trade protection, not easily explained by domestic political theories, international economic theories, or domestic economic theories. My statistical findings highlight the need to consider the nature of the trading partner, not simply domestic economic and political factors, in accounting for

patterns of trade protection. This is a modest contribution to the literature on trade protection. Moreover, by demonstrating that material conditions fall short in explaining the puzzles broached in this project, I am able to highlight an empirical gap between interests and empirical conditions. This creates room for a belief based hypothesis.

Third, I have shown that lingering beliefs about NMEs affect the manner in which the U.S. International Trade Administration and European Commission Directorate for Trade Activities interpret and apply anti-dumping cases. Belief stasis affects the implementation of formal rule changes. The U.S. and EU trade agencies developed beliefs about non-market economies during the Cold War based on a rational assessment of the interests, capabilities, and incentives of NMEs. Specifically, Western trade agencies believed that NMEs held interests antagonistic to the West, and had domestic institutional structures capable of harming Western industries through trade relations. Special anti-dumping laws and procedures were created by Western trade agencies to grapple with the perceived threat of the extraordinary trade capacity of NMEs. Now, even as the empirical reality in NMEs has changed, and Western trade laws have also changed to accommodate the transitions in former Communist countries, these Cold War engendered beliefs live on.

I reviewed four cases of formal rule change: two cases by the U.S. Department of Commerce, and two cases by the European Commission. Each of these formal rule changes was initiated by the trade agency itself. Each rule change has been circumvented by the trade agency that initiated it; some changes going unimplemented for as long as ten years. Individual treatment tests, market oriented industry tests, and even country reclassifications have been interpreted so as to negate the intended formal rule change.

This rule circumvention is not accidental. Interviews, case law, internal documents and memos all point to the overarching role of beliefs, perceptions, and assumptions in guiding decision-making on NME anti-dumping cases. The trade agencies intentionally fail to apply formal rule changes because their perception of the facts and circumstances surrounding the trade cases are colored by beliefs about the threatening nature of trade with NMEs.

I argue that beliefs about NMEs act as information discounters. New information about the changing interests and incentives of former Communist countries is not completely assimilated by the trade agencies. I demonstrated that trade agencies do not make fully rational decisions based on assessments of the economic or political material conditions in NMEs. Instead trade agencies act as disproportionate information processors, filtering out a large amount of contrary evidence. By discounting new information, beliefs about the threatening nature of trade with non-market economies remain resistant to change. Even if trade is not seen as threatening, it is at least different, should be treated with caution, and therefore merits the extraordinary trade safeguards in place to protect domestic industries from NME imports. In sum, beliefs discount contrary information, contribute to the stickiness of decision-making, and stymie the implementation of formal rule change.

Beliefs are reproduced both inside and outside the trade agencies that administer the trade laws. Trade agencies perpetuate lingering beliefs about non-market economies by consistently interpreting NME cases as different, extraordinary, and particularly threatening. If case law is the cumulation of case decisions and interpretations, then adjudicating NME anti-dumping cases based on perceptions and inclinations about the

incentives facing NME exporters is a way to reproduce Cold War beliefs about non-market economies. Moreover, domestic interest groups, policy makers, and other agencies can also perpetuate these beliefs through policy documents, speeches, and conferences. These sources can indirectly influence the beliefs held by trade agencies. As such, beliefs about NMEs are reproduced inside the trade agencies as a result of both internal and external forces.

At an European Bank for Reconstruction and Development sponsored conference on trade, a Russian steel firm summarized this problem well when it argued, "Russia's problem is that it is not seen as a market economy. We are facing abusive practices in the investigation of our production costs because (those bringing suites against us) say that our costs are not the real costs" (Moscow Times 2001). Until the West can change the way it sees Russia and other NMEs, the implementation of the laws will not change.

Other scholars have argued that once ideas and beliefs are institutionalized into formal rules, the formal rules resist change. It might take a crisis or some type of major policy shift to dislodge the ideas and change the formal rules. I am taking a slightly different tactic on this issue. In my project the formal rules are changing. Institutions are being redesigned to accommodate changes in NMEs. I am demonstrating that even if those formal rules do change, the beliefs may continue to impede the intended implementation of the formal rule change. Beliefs not only affect rule formation but also rule implementation. The implementation of the rules is often the neglected side of politics, and this is what I am highlighting in this project.

What is particularly interesting about this finding, is that anti-dumping laws are the least likely case in which to find beliefs matter. These laws are highly legalistic,

subject to judicial review, and removed from the power of special interest groups. Yet even in this least likely case, beliefs and perceptions about the trading partner affect the manner in which policy is applied. If beliefs about trading partners affect this highly legalistic trade law, this suggests an even larger role for politically motivated beliefs and ideas in the making of trade policy than previously considered. As such, this finding contributes to our understanding of the political component of trade laws.

The fourth main finding of this project is that there is a coherent logic to belief change. The certainty with which a belief is held affects the stickiness of the belief. Belief change is a function of changes in information discounted by degree of belief certainty. Beliefs held with more certainty will act as stronger information discounters, minimizing the effects of new information. Beliefs held with less certainty will not discount contradictory evidence so dramatically, and will therefore be easier to dislodge.

I test these arguments about belief certainty in three ways: first looking at U.S. reclassifications of NMEs, second looking at EU reclassifications of NMEs, and third comparing U.S. and EU behavior toward non-market economies. Reclassifications are good indicators of belief change, signaling that the U.S. and EU are starting to see former NMEs as "market economies." I measure belief certainty on a continuum, by which high to low certainty is a function of the internationally determined interests and domestically determined institutional incentives of non-market economies. Low belief certainty NMEs should experience reclassifications before high belief certainty NMEs on the continuum.

Both United States and European Union reclassification decisions were largely explained by looking at degree of belief certainty as an important independent variable.

First, deviant satellites, then orthodox satellites, then deviant core countries have been reclassified. The order of country reclassifications was not predicted by economic and political material condition hypotheses.

The European Union provides much more variation in terms of countries reclassified than the United States. Even though the U.S. case does not provide much variation in terms of NMEs reclassified, the differences between the U.S. and EU are the third test of a theory of belief change. U.S. beliefs are predicted to change more slowly than the EU's, both because the U.S. held beliefs with more certainty and because the U.S. does not have the same institutional safeguards and iterated interactions with NMEs as the EU. The United States' continuing reluctance to reclassify countries that have effected democratic transitions in Central and Eastern Europe provides compelling evidence of the explanatory role of belief certainty in understanding belief change.

The testing of a new variable, belief certainty, is a contribution to the decision-making literature across political science. Belief certainty, derived from objective material factors, helps to grapple with the measurement problem inherent in most ideational approaches. It is difficult to ascribe much variation to a variable broadly defined as beliefs. However, by measuring differences in the intensity with which a belief is held, one can obtain much more explanatory leverage from beliefs. Moreover, conceptualizing beliefs in more dynamic terms also allows for the broadening of the somewhat static approach adopted thus far in comparative politics and international relations to the study of the causal impact of beliefs.

While I am not surprised that international political factors find their way into the implementation of even highly legalistic trade laws like anti-dumping laws, I am

surprised at the extent to which lingering Cold War beliefs continue to affect the implementation of trade policy in the post-Cold War world. I am surprised at the willingness of trade officials to acknowledge that their treatment of NMEs is in violation of the WTO, but that they are going to continue to discriminate against NMEs anyway. I am surprised at the continued reliance on presumptions, assumptions, and inferences about non-market economies, as confirmed in policy memos, letters, and case law. I am also surprised at the extent to which trade agencies act as disproportionate information processors, failing to assimilate the news that NMEs are not more corrupt, or less democratic, or less economic liberal than other developing countries. These findings are important for their theoretical implications, namely contributing to the literature on the role of ideas and beliefs in decision-making, as well as their policy implications for non-market economies.

Limitations and benefits of a theory focused on the role of beliefs

There are limitations to a theory based on beliefs. The timing of belief change cannot be predicted, nor can one say that country A will *always* change beliefs about country B before beliefs about country C. A belief-based theory cannot explain month to month, or year to year variations in trade protection. A spike in anti-dumping cases in one year followed by a drop in cases the next year is beyond the scope of a belief based hypothesis.

However, I started out this project by arguing that belief based theories complement not supplant interest based accounts of trade protection. Beliefs are not the only thing doing the explanatory leg work in this project. They interact with other

material conditions to affect outcomes in two ways. First, material factors are useful to explain lower order questions. What explains yearly variations in number of anti-dumping cases filed, or percentage of total cases against non-market economies in any given year? Why are 25 cases filed in one year, and 15 cases filed in the next year? This lower order question is only looking at outcomes, and does not ask about systematic treatment of NMEs over time. For these types of questions, material economic conditions might be helpful in understanding patterns of trade protection. Changes in unemployment rates or changes in GDP levels may affect the number of anti-dumping case initiated in any given year. These are important factors and should not be minimized, for they can help to explain year to year variation.

Second, material conditions are helpful to better understand the factors that affect belief change. Changes in empirical reality are necessary in order for beliefs to change. Crisis, institutional change, and iterated interactions will all affect the nature of belief change. Both institutions and interactions facilitate information flows which improve the chances for belief change. These are just some of the material factors which might affect the speed and scope of belief change.

For example the EU pre-association agreements with countries in Central and Eastern Europe were important facilitators of reclassification. Russia and China's bid for WTO membership caused the EU to rethink its trade policies to these countries. Additionally, in the EU case geographic proximity, when combined with a discussion of belief certainty, became a useful variable to understand why the EU might be more concerned about trade relations with NMEs than other developing countries. In the case of the EU in particular, the explanatory tale would have been impoverished without

considering additional material factors. The material factors complement the belief based hypotheses. Without an understanding of the causal role of beliefs, these material factors would be unable to explain NME treatment. But when combined with a discussion of belief certainty, the material factors enrich the explanation.

This project has also demonstrated the limitations of material factors alone, particularly the limitations of institutional explanations. Some new institutional scholars think that institutions are the magic panacea. According to them, institutions promote cooperation, institutions solve collective action problems, institutions increase prosperity, exchange, etc. One simply needs to get the construction of the institution right in order to achieve the desired outcome. But this has not been proven true in this project. Domestic institutional reforms in NMEs do not necessarily change the way NMEs are treated by the West. NMEs might have the "right" domestic institutional mix, but remain unable to change the levels of Western trade protection.

International institutional safeguards, such as WTO membership or European trade agreements, are not sufficient in order to change the manner in which the West treats NMEs. In fact, the U.S. has resolutely rejected the WTO's influence in the making of its policies toward NMEs. The U.S. openly rejects this international institutional influence on its domestic policies, while the EU has been more malleable to this kind of international pressure. In essence, institutions play a qualified role. They are important, but are not always decisive. One needs to consider the interaction of institutions and beliefs to understand the process of administering trade laws, and the resulting trade protection. This is an interesting and important finding that should be more rigorously incorporated into the institutionalist research agenda.

Thinking about the causal role of beliefs can help explain the choices that are made when administering trade cases, such as determining if information supplied by the defendant will be accepted, or if the time deadlines can be pushed out, or if a surrogate country is necessary. These are all judgment calls that trade analysts make in administering anti-dumping laws. They are not arbitrary choices. They are choices systematically affected by beliefs that the trade agencies hold regarding certain countries. I am not trying to posit a theory about individual level decision-making, but I am arguing that overarching beliefs about the threatening nature of trade with Communist countries maintained and perpetuated by trade agencies do affect these individual level decisions.

Finally, there is the empirical limitation of beliefs. Because beliefs do not covary in a direct way with outcomes, it is always possible to argue that beliefs don't matter. Maybe something else explains U.S. and EU discrimination against NMEs. Since beliefs cannot be directly observed, only inferred from written and verbal evidence, there is always room for doubt. Overcoming this "disbelief," one can only refute alternatives and proffer a mountain of circumstantial evidence and a story about the causal role of beliefs. I think I have accomplished that.

Policy Implications

There are many policy implications to be drawn from the Western use of anti-dumping trade remedies against non-market economies. There are direct implications for the domestic reform efforts in non-market economies, for the nature of relations between non-market economies and other countries, and for the integration of these countries into the international division of labor, to name a few. I will discuss three implications to be

drawn from this project: how Western anti-dumping use affects other countries in the international system; new trade impediments facing reclassified NMEs; and how the ability of NMEs to afford domestic economic reforms and integrate into the international political economy might be affected if they continue to be treated as outsiders.

First, the West's use of anti-dumping laws sets a deleterious precedent in the international system. Other developing countries are jumping on the anti-dumping bandwagon. For example, Russia has recently initiated anti-dumping cases against Ukrainian pipe and candy (Interfax News Agency 2001e). Hungarian cement companies initiated cases against Russia, Ukraine and Moldovan imports (Hungarian News Agency 2000). Ukraine initiated anti-dumping investigations against foam rubber from the EU, Canada, Norway, the Baltics, Russia, Belarus, Poland, Slovakia, Turkey, Czech Republic, and Hungary (Newsbase Russian Daily Bulletin 1999). The Czech Republic slapped anti-dumping duties on German imports (Czech News Agency 2000b). China is initiating a host of retaliatory cases against Japan, Korea, the United States, and Germany in various commodities in response to frequent accusations by these countries of Chinese dumping (Asianinfo Daily China News 2001). Estonia and Latvia have also developed anti-dumping laws so that they can get into the international trade protection game (Baltic Times 1999a; Baltic Times 1999b; Estonian News Agency 2001).

Even blatantly unmerited cases are freely launched. Hungary launched several anti-dumping cases against Russian pipe in spite of their dubious economic merit. "Russian pipe imports in Hungary are insignificant... but the affair is essential because it may entail other inquiries...."(Interfax 2000). Canada recently accused Russia of dumping steel sheet, which is amazing considering "Russia only ships a few thousand

tons of corrosion proof steel to Canada every year and this could hardly upset the Canadian market" (Interfax News Agency 2001c). The harassment effect and concomitant trade deterring effects of even unmerited cases encourage the filing of anti-dumping complaints.

Developed countries are setting a costly example for developing countries. Anti-dumping duties impede trade flows and have substantial negative welfare effects. Developing countries cannot afford such economic costs. Intentionally forgoing cheaper foreign products in order to protect domestic producers simply redistributes the costs of production domestically, so that everyone pays more. This is a luxury many developing countries simply cannot afford. However, the anti-dumping rules of the game mean developing countries must emulate the actions of the developed world in order to stay economically flush. As such, a negative spiral of anti-dumping tit for tat threatens to impede the economic development of the lowest countries on the international totem pole—developing countries and transitional economies. "Global prosperity depends on international trade which needs liberalization, and its focus has to be on exports from developing countries to advanced economies so that they would become equal players in the world field" (Czech News Agency 2000a).

Second, other trade laws could be applied to non-market economies as they become reclassified and attempt to reenter the international division of labor. Non-market economies have traditionally not been subjected to countervailing duty trade laws by the European Union and United States (Marcus 1985; United States Senate Committee on Finance 1984, 30). Countervailing duty laws are designed to offset the benefits an industry receives from government subsidization of design, production, or export (Marvel

and Ray 1996, 1576). Due to of the pervasive nature of subsidies in non-market economies, subsidies could not be singled out in trade cases against NME imports. [137]

If reclassified, the countervailing duty laws would suddenly apply to NMEs industries. There are two potential issues regarding the application of countervailing duties to reclassified NMEs. First, the Subsidies Code of the GATT Agreement specifies which types of subsidies are countervailable, meaning subject to putative action. If a country is a signatory to the GATT Subsidies Code, there are two parts to the administration of countervailing duty laws. Not only must a foreign industry be receiving a subsidy but that industry must be causing material injury to a domestic competing industry in order for the subsidy to be actionable. In essence, injury and subsidization are both required to invoke the countervailing duty law. If a country is not a signatory to the GATT Code, and this is a special area of agreement, then only subsidization is necessary in order to invoke the law. Imports from a country that is not a signatory to the Code can be slapped with countervailing duties even if those imports are not injuring domestic producers.

NMEs are not signatories to the Subsidies Code nor do they have similar bilateral agreements with the U.S. and EU. In a countervailing duty investigation a domestic industry would only have to prove the existence of a subsidy to a NME industry in order to have a case (Willkie 1990, 526). This could prompt domestic industries to flood U.S. and EU trade agencies with petitions for investigations against imports from former

[137] Interview with trade analyst, U.S. International Trade Administration in Department of Commerce. Washington, D.C., February 2001. For examples of countervailing duty cases initiated and terminated against NMEs see (49 FR 19371 1984; 56 FR 57616 1991).

NMEs. Because subsidies are still prevalent, this would most certainly result in the imposition of corrective duties.

Another issue which will be of great importance to NMEs concerns the imposition of retroactive countervailing duties against recently privatized industries. The U.S. trade agency is trying to determine whether the subsidies that industries received while under state control are countervailable, due to the fact that the subsidies will confer a benefit on those industries for up to fifteen years after they were given.[138] Britain, Mexico, Brazil, France and New Zealand are facing this issue as well.

In *Lime from Mexico* (1989), the U.S. Department of Commerce explicitly addressed the issue of future benefits from past subsidies, and whether they were countervailable (Cornell 1994, 1312-1314). In this case, the Department of Commerce ruled that if the government sold 100% ownership in a state owned firm at market value, this would wipe out any benefits conferred by past subsidies. Less than 100% or sales at less than market value would mean that past subsidies were still benefiting a firm. Subsequent U.S. cases have supported and alternatively refuted this assertion. The Court of International Trade remanded this determination arguing that a subsidy is fully extinguished once a firm is privatized.[139] Nonetheless, the preliminary determinations on this issue have been inconclusive, and there continues to be much indecision.

If it were decided that privatized state industries could be subject to countervailing duty investigations based on past subsidies, almost all exports from almost

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[138]Lecture by Susanne Lotarski, Director of International Economic Policy Office of Eastern Europe and Soviet Affairs, United States International Trade Administration, at Georgetown University, October 19, 1992.

[139] See Saarstahl, AG v. United States, No. 94-92 (Court of International Trade, June 7, 1994) and (Cornell 1994).

all industries in NMEs would be saddled with duties. There is no way that former NME exporters would be able to export competitively if they were burdened with retroactive countervailing duties. This could have a profound effect on the ability of NMEs to earn foreign exchange and develop their economic infrastructure. The European Union has said that it would not apply countervailing duties in this way, but there has yet to be a test case. The United States has not determined how it will treat newly privatized firms in reclassified NMEs.[140] Given the recent reclassifications by the U.S., this issue may arise in the near future.

Third, the continued discriminatory treatment of NME imports by the West has implications for the development of NMEs and their ability to integrate into the international political economy in two ways. First, there is the lingering effect of anti-dumping duties. Once an anti-dumping duty is in place, it tends to be renewed and continues to have trade deterring effects. For example, both the European Union and the United States tend to renew duties in round after round of administrative case reviews. Protection is often renewed because resumed trade might hurt domestic firms, not because NMEs (or any country for that matter) are actually dumping. Therefore, the effects of past flagrant anti-dumping abuse against NME imports will continue to impede NME trade development for some time to come.

For example, in the case of bicycles from China, the EU initiated an anti-dumping case against Chinese imports in 1991, and has been continuing to grant even higher levels

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[140] An interview with a trade analyst at the U.S. Department of Commerce in February 2001 confirmed that they had not yet decided if past subsidies to NME firms would be countervailable. The U.S. is waiting for a case to be initiated against a reclassified NME exporter before rendering a policy statement. Information also confirmed in interview with Deputy Head of Unit, DG IA, European Commission. Brussels, Belgium, Fall 1999.

of protection to European bicycle producers ever since (COM Reg No. 550/93 1993; European Commission 2000b). The rationale behind continued trade protection against Chinese imports, is that the domestic bicycle market is too small and unprepared for international competition, after almost a decade of trade protection. The U.S. case of titanium sponge imports from the USSR is even more egregious. In 1968, U.S. industries were awarded protection from Soviet titanium sponge imports, and every five years the dumping margins were renewed until 1998 (63 FR 47474 1998). When the USSR broke up, the ITA simply applied the existing margins to the republics. This is 20 years of non-stop trade protection for U.S. producers.

These are not anomalous cases. The European Union has had trade protection in place against imports of Chinese pocket lighters (Council Reg No. 192/1999 1999), potassium permanganate from China (Council Reg No. 299/2001 2001), and silicon carbide from Russia and Ukraine for almost ten years running (Council Reg No. 1100/2000 2000). The United States has continued to renew protection against tapered roller bearings from Hungary (64 FR 213 1999) and Romania (62 FR 31075 1997), uranium from Russia (U.S. International Trade Administration 2000a), and urea from Russia, Ukraine, Belarus, Kazakhstan, Tajikistan, Lithuania, Latvia, Estonia, Turkmenistan, Azerbaijan, Armenia, Georgia and Uzbekistan for more than ten years.[141] Once trade protection is in place, it tends to remain in place. As such, the past history of anti-dumping use against NMEs will continue to have an insidious effect on their export capacity in those products for the near future.

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[141] See ITA case numbers A-844-801, 823-801, 843-801, 842-801, 821-801, 835-801, 449-801, 451-801, 834-801, 832-801, 822-801, 831-801, and 833-801 for details on the urea cases.

Second, continued Western discrimination against imports from non-market economies will directly affect their ability to afford domestic economic and political reforms. Export revenue is vital to fund costly reforms. Export revenue and the tax money it generates are needed to pay for social safety nets for those disadvantaged by the extensive economic restructuring, and to compensate those left unemployed in the wake of massive bankruptcies of state owned industries. Export oriented growth also has positive spillover effects on many aspects of the economy. Industries able to build an export market will source more goods from domestic producers of factor inputs, who will employ more workers, who will want to spend their money on consumer products, etc. Export oriented firms forced to compete in the international market will learn business skills and improve production efficiency. These lessons will be brought back to the domestic market, and have ripple effects as well.

In essence trade is not simply about revenue generation, although that is a vital component of trade for these countries. Trade is also about learning the rules of the capitalist game. Trade is about learning to produce goods competitively for an international market. These are economic lessons that NMEs need in order to figure out how the international political economy works. There is a space for NMEs in the international division of labor, if the West will allow them to compete.

There are no true non-market economies anymore. There are countries in transition who used to be NMEs. The domestic institutional structures and the international environment have changed, thereby altering NME incentive structures. Firms in former Communist countries have the same incentives to dump as firms in any other developing country. These firms want to price low to break into the international

political economy. In pricing low, they may dump (inadvertently or intentionally). As such, there are laws in place to counter these unfair trade practices. The laws do not have to be extraordinary to counter dumping from transitional economies.

Conclusion

During the period of *perestroika* reforms in the Soviet Union, Gorbachev scolded his compatriots' anti-Western rhetoric. He argued that in order to work in harmony with the West, the Soviet Union would have to reject its "enemy image" of the United States (Gorbachev 1987, 203). Such an image was unnecessary and would spoil international relations. Gorbachev's sage advice might well be heeded by the West. Enemy images of NMEs appear to be undermining the normalization of trade relations between former Communist countries and the West.

Are NMEs our enemies? According to the words and deeds of Western trade agencies, one might be led to think so. Beliefs about the extraordinary threat of trade with Communist (and now former Communist) countries have a lingering influence on the way Western trade laws are administered. It may take some time and some effort to change the perceptions and beliefs the West holds about non-market economies, and visa-versa. However, the mutual gains would surely exceed the cost.

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Appendix I: Explanation of Variables in Data Analysis

Corruption- Index of corruption values, scale 0-10 with 0 being most corrupt and 10 being least corrupt.
Compilation of results from 3-16 surveys measuring perceptions of corruption.
Sources: Transparency International, Internet Center for Corruption Research, 2001.

Democratization—Combination of autocracy and democracy rankings to arrive at a level of democratization or "polity." 20 point scale from +10 full democracy to –10 full autocracy. Used 1997 figures.
Sources: Polity IV Project, 2000.

Dumping Margin—weighted average dumping margin (percentage)
Sources: U.S. Department of Commerce, International Trade Administration. 2000. *Antidumping and Countervailing Duty Cases Initiated Since January 01, 1980*; U.S. Department of Commerce, International Trade Administration, 2000. "AD and CVD Investigations Decisions"; U.S. Department of Commerce, International Trade Administration, 2001. "Import Administration AD and CVD Decisions"; and U.S. Government Printing Office, various. *Federal Registrar.*

Economic Freedom— 1997 economic freedom rankings based on average freedom scores for eight indicators of economic freedom. Scale 1-5 with 1 being most free (market oriented) and 5 being least free (extensive government intervention).
Sources: The Heritage Foundation, 2001.

Employment—number of workers employed in industry for that year, including both production workers and other workers.
Sources: Bartelsman, Becker, and Gray 2000; National Bureau of Economic Research: U.S. Census Bureau 1992; U.S. Census Bureau 1997; U.S. Census Bureau 2000. *Annual Survey of Manufacturers: Statistics for Industry Groups and Industries, 1980-1992*; U.S. Census Bureau, 2000. *Census Economic Outlook 1997;* and U.S. Department of the Interior, Bureau of Mines.

Geographic Proximity—kilometers between national capitals (Brussels, Belgium reference point for the EU, and Washington, D.C. reference point for the U.S.).
Sources: U.S. Census Bureau. *Geographic Distance.*

Gross Domestic Product—U.S. million $ converted from national currency using 1997 period average dollar exchange rates.
Sources: International Monetary Fund. *Balance of Payments Statistics Yearbook.*

GDP per capita—Gross Domestic Product/Population

Sources: International Monetary Fund. *Balance of Payments Statistics Yearbook;* and U.S. Census Bureau, 1997. *International DataBase: Total Midyear Population.*

Gross Domestic Product (U.S.) : Implicit Price Deflator—1996=100 (for analyses 1-3)
***Sources*:** U.S. Department of Commerce, Bureau of Economic Analysis, 2000.

Industry Shipments-- (at time t-1) (million $). Based on net selling values, f.o.b. plant, after discounts and allowances. This includes receipts for contract work and miscellaneous service provided by the plant to others.
Sources: Bartelsman, Becker and Gray, 2000; National Bureau of Economic Research: U.S. Census Bureau 1992; U.S. Census Bureau 1997; U.S. Census Bureau 2000. *Annual Survey of Manufacturers: Statistics for Industry Groups and Industries, 1980-1992*; U.S. Census Bureau, 2000. *Census Economic Outlook 1997;* and U.S. Department of the Interior, Bureau of Mines.

Import change — [Imports (million $) - imports lagged (million $)]/imports lagged (million $)
Sources: Feenstra, 2000; U.S. Department of Commerce, various years. *STAT-USA;* U.S. Department of Commerce, various years. *U.S. Imports for Consumption: Annual Report;* and U.S. Department of Commerce, various years. *U.S. Imports: Consumption and General SIC Based Products by World Areas.*

Import penetration lagged -- Imports (t-1, million $) / Industry shipments (t-1, million $)
Sources: Bartelsman, Becker, and Gray 2000; Feenstra, 2000; National Bureau of Economic Research: U.S. Census Bureau 1992; U.S. Census Bureau 1997; U.S. Census Bureau 2000. *Annual Survey of Manufacturers: Statistics for Industry Groups and Industries, 1980-1992*; U.S. Census Bureau, 2000. *Census Economic Outlook 1997;* U.S. Department of the Interior, Bureau of Mines; U.S. Department of Commerce, various years. *STAT-USA;* U.S. Department of Commerce, various years. *U.S. Imports for Consumption: Annual Report;* and U.S. Department of Commerce, various years. *U.S. Imports: Consumption and General SIC Based Products by World Areas.*

Political Freedom—1997 political freedom ranking based on political and civil liberties. Scale 1-7 with 1 being most free and 7 being least free (increments of .5).
Sources: Freedom House, 1997-1998.

Population—in millions.
Sources: U.S. Census Bureau, 1997. *International DataBase: Total Midyear Population.*

Profitability —proxy for the profitability of the industry at t-1
(Value-added lagged – wages lagged)/industry shipments lagged

Sources: Bartelsman, Becker and Gray, 2000; National Bureau of Economic Research: U.S. Census Bureau 1992; U.S. Census Bureau 1997; U.S. Census Bureau 2000. *Annual Survey of Manufacturers: Statistics for Industry Groups and Industries, 1980-1992*; U.S. Census Bureau, 2000. *Census Economic Outlook 1997;* and U.S. Department of the Interior, Bureau of Mines.

Trade Importance—percentage of total U.S. or EU exports going to the country
Sources: International Monetary Fund, 1997. *Direction of Trade Statistics Yearbook.*

Type of Government—dependent variable—0=market economy, 1=non-market economy or former NME (analysis 4)

Value-added per employee —[(Total Value-added by Manufacture (t-1, million $) / industry employment] /GDP deflator
(value-added equals industry shipments + cost materials + change in finished goods and inventories)
Sources: Bartelsman, Becker and Gray, 2000; National Bureau of Economic Research: U.S. Census Bureau 1992; U.S. Census Bureau 1997; U.S. Census Bureau 2000. *Annual Survey of Manufacturers: Statistics for Industry Groups and Industries, 1980-1992*; U.S. Census Bureau, 2000. *Census Economic Outlook 1997;* and U.S. Department of the Interior, Bureau of Mines.

Wages lagged (million $)—production worker wages at t-1
Sources: Bartelsman, Becker and Gray, 2000; National Bureau of Economic Research: U.S. Census Bureau 1992; U.S. Census Bureau 1997; U.S. Census Bureau 2000. *Annual Survey of Manufacturers: Statistics for Industry Groups and Industries, 1980-1992*; U.S. Census Bureau, 2000. *Census Economic Outlook 1997;* and U.S. Department of the Interior, Bureau of Mines.

Note: Lagged variables are lagged one year from the initiation of the anti-dumping case. T=year case initiated.

Dummy Variables for Country Coding

Non-Market Economy
South America
Big Emerging Markets (aggregate of countries from various groupings)
Other Asian countries
Asian NICs
Japan
Europe
Other (includes countries like Canada, New Zealand, Saudi Arabia, UAE, Kenya, etc.)

Sources: U.S. International Trade Administration 2000.

Trade Data Codes and Relevant Years

Harmonized Tariff Schedule Commodity Codes (HS) (1987-1997)
North American Industry Classification Standard (NAICS) (1997-present)
Standard Industrial Classification Commodity Codes (SIC)
Standard Industrial Trade Classification Commodity Codes (SITC)
Tariff System of the United States (TSUSA) (1985-1987)

Sources: Haveman 1999; U.S. Department of Commerce, International Trade Administration, 2000. "North American Industry Classification Standard (formerly SIC)—1997 NAICS and 1987 SIC Correspondence Tables"; and U.S. International Trade Commission 2000. *Harmonized Tariff Schedule of the United States Annotated.*

Appendix II: U.S. Anti-dumping Cases Initiated Against Non-Market Economies, 1980-2000

Year	ITA case number	Country	Product
2000	A-821-813	Russia	Pure magnesium
2000	A-570-864	China	Pure magnesium
2000	A-449-804	Latvia	Steel concrete reinforcing bars
2000	A-822-804	Belarus	Steel concrete reinforcing bars
2000	A-570-860	China	Steel concrete reinforcing bars
2000	A-455-803	Poland[1]	Steel concrete reinforcing bars
2000	A-821-812	Russia	Steel concrete reinforcing bars
2000	A-823-809	Ukraine	Steel concrete reinforcing bars
2000	A-841-804	Moldova	Steel concrete reinforcing bars
2000	A-570-859	China	Steel wire rope
2000	A-570-858	China	Citric acid and sodium nitrate
2000	A-570-862	China	Foundry coke products
2000	A-570-863	China	Honey
2000	A-570-861	China	Desktop note counters/scanners
2000	A-560-812	Kazakhstan	Hot-rolled steel products
2000	A-823-811	Ukraine	Hot-rolled steel products
2000	A-570-865	China	Hot-rolled steel products
2000	A-485-805	Romania	Hot-rolled steel products
1999	A-823-810	Ukraine	Ammonium nitrate
1999	A-570-857	China	Paintbrushes
1999	A-821-811	Russia	Ammonium nitrate
1999	A-570-856	China	Synthetic indigo
1999	A-851-802	Czech Republic	Line and pressure pipe
1999	A-485-805	Romania	Line and pressure pipe
1999	A-570-855	China	Apple juice concentrate
1999	A-570-854	China	Cold-rolled steel products
1999	A-821-810	Russia	Cold-rolled steel products
1999	A-859-801	Slovakia	Cold-rolled steel products
1999	A-570-853	China	Bulk aspirin
1999	A-851-801	Czech Republic	Steel plate
1999	A-570-852	China	Creatine
1998	A-821-809	Russia	Hot-rolled steel products
1998	A-570-851	China	Preserved mushrooms
1996	A-570-850	China	Roofing nails
1996	A-821-808	Russia	Steel plate
1996	A-823-808	Ukraine	Steel plate
1996	A-570-849	China	Steel plate
1996	A-570-848	China	Crawfish tail meat

year	ITA case number	Country	product
1996	A-834-805	Kazakhstan	Beryillium metal and alloys
1996	A-570-847	China	Persulfates
1996	A-570-845	China	Brake drums
1996	A-570-846	China	Brake rotors
1996	A-570-844	China	Melamine dinnerware
1995	A-570-843	China	Bicycles
1995	A-570-842	China	Polyvinyl alcohol
1994	A-570-841	China	Manganese sulfate
1994	A-570-840	China	Manganese metal
1994	A-570-839	China	Steel drawer slides with rollers
1994	A-570-838	China	Honey
1994	A-570-837	China	Wheel inserts
1994	A-570-836	China	Glycine
1994	A-570-835	China	Furfuryl alchol
1994	A-821-807	Russia	Ferrovanadium and nitrided vanadium
1994	A-570-833	China	Disposable lighters
1994	A-821-806	Russia	Magnesium
1994	A-821-805	Ukraine	Magnesium
1994	A-570-832	China	Magnesium
1994	A-570-831	China	Fresh garlic
1993	A-570-830	China	Coumarin
1993	A-570-829	China	Saccharin
1993	A-823-805	Ukraine	Silicomanganese
1993	A-570-828	China	Silicomanganese
1993	A-570-827	China	Cased pencils
1993	A-437-803	Hungary	Phthalic anhydride
1993	A-570-826	China	Paper clips
1993	A-570-825	China	Sebacic acid
1993	A-570-824	China	Silicon carbide
1993	A-570-823	China	Nitromethane
1992	A-570-822	China	Spring lock washers
1992	A-570-821	China	Hairbrushes
1992	A-570-820	China	Ductile iron waterworks fittings
1992	A-455-802	Poland	Steel plate
1992	A-485-803	Romania	Steel plate
1992	A-570-819	China	Ferrosilicon
1992	A-834-804	Kazakhstan	Ferrosilicon
1992	A-821-804	Russia	Ferrosilicon
1992	A-823-804	Ukraine	Ferrosilicon
1992	A-437-802	Hungary	Sulfanilic acid

year	ITA case number	Country	product
1992	A-570-818	China	Sulfur dyes
1991	C-570-817	China[3]	Chrome plated lug nuts
1991	A-461-801	USSR[2]	Uranium
1991	C-570-816	China[3]	Oscillating and ceiling fans
1991	A-570-815	China	Sulfanilic acid
1991	A-485-802	Romania	Non-alloy steel pipe
1991	A-570-814	China	Butt weld pipe fittings
1991	A-570-813	China	Refined antimony trioxide
1991	A-455-801	Poland	Ball bearings
1991	A-570-812	China	Ball bearings
1991	A-437-801	Hungary	Ball bearings
1991	A-570-810	China	Shopping carts
1991	A-570-811	China	Tungsten ore concentrates
1990	A-570-809	China	Steel wire rope
1990	A-570-808	China	Chrome plated lug nuts
1990	A-570-807	China	Oscillating and ceiling fans
1990	A-570-806	China	Silicon metal
1990	A-570-805	China	Certain sulfur chemicals
1990	A-570-804	China	Sparkers
1990	A-570-803	China	Forged hand tools
1989	A-570-802	China	Industrial nitrocellulose
1988	A-485-801	Romania	Anti-friction bearings
1988	A-570-801	China	Certain headwear
1986	A-461-601	USSR[2]	Urea
1986	A-437-601	Hungary	Tapered roller bearings
1986	A-485-601	Romania	Tapered roller bearings
1986	A-570-601	China	Tapered roller bearings
1986	A-429-601	East Germany	Urea
1986	A-485-601	Romania	Urea
1985	A-570-506	China	Porcelain on steel cooking ware
1985	A-570-505	China	Small diameter standard pipe
1985	A-570-504	China	Petroleum wax candles
1985	A-455-502	Poland	Steel wire nails
1985	A-570-503	China	Steel wire nails
1985	A-455-501	Poland	Steel wire rod
1985	A-570-502	China	Iron construction castings
1985	A-485-801	Romania	Oil country tubular goods
1985	A-570-501	China	Natural bristle paintbrushes
1984	A-435-401	Czechoslovakia	Carbon steel products
1984	A-429-404	East Germany	Carbon steel products
1984	A-437-401	Hungary	Carbon steel products

year	ITA case number	Country	product
1984	A-455-402	Poland	Carbon steel products
1984	A-485-401	Romania	Carbon steel products
1984	A-455-403	Poland	Carbon steel structural shapes
1984	A-429-403	East Germany	Steel wire rod
1984	A-455-401	Poland	Barbed wire
1984	A-461-402	USSR	Muriate of potash
1984	A-429-402	East Germany	Muriate of potash
1984	C-461-401	USSR[3]	Muriate of potash
1984	C-429-401	East Germany[3]	Muriate of potash
1983	A-455-002	Poland	Steel wire rod
1983	C-435-001	Czechoslovakia[3]	Steel wire rod
1983	C-455-003	Poland[3]	Steel wire rod
1983	A-570-006	China	Barium carbonate
1983	A-570-007	China	Barium chloride
1983	A-570-005	China	Textiles and apparel
1983	A-570-002	China	Chloropicrin
1983	A-570-001	China	Potassium permanganate
1981	A-485-001	Romania	Carbon steel plate
1981	A-437-001	Hungary	Trailer axles
1981	A-429-001	East Germany	Manual typewriters
1981	A-455-001	Poland	Electric golf carts
1980	A-485-006	Romania	Carbon steel products

Sources: United States International Trade Administration, *Antidumping and Countervailing Duty Cases initiated Since January 1, 1980,* www.ia.ita.doc.gov/stats/; and *Federal Register*, 2000 various.

[1] In this case Poland has been reclassified as a market economy.

[2] When the Soviet Union broke into individual republics in 1991, the ITA converted this one case into 15 separate antidumping cases.

[3] Indicates countervailing duty investigations instead of antidumping.

Appendix III: European Union Anti-dumping Cases Initiated Against Non-Market Economies and Former NMEs, 1980-2000

Year initiated	Official Journal [1]	Country	Product
2000	C45, 18/02/00	China	Aluminum foil
2000	C45, 18/02/00	Russia	Aluminum foil
2000	C127, 05/05/00	Czech Republic [2]	Steel ropes and cables
2000	C127, 05/05/00	Russia	Steel ropes and cables
2000	C134, 13/05/00	China	Paracetamol
2000	C138, 17/05/00	China	Lamps
2000	C301, 21/10/00	Belarus	Urea
2000	C301, 21/10/00	Bulgaria [2]	Urea
2000	C301, 21/10/00	Estonia [2]	Urea
2000	C301, 21/10/00	Lithuania [2]	Urea
2000	C301, 21/10/00	Poland [2]	Urea
2000	C301, 21/10/00	Romania [2]	Urea
2000	C301, 21/10/00	Ukraine	Urea
2000	C320, 09/11/00	Ukraine	Ferro molybdenum
2000	C322, 11/11/00	China	Granite stones
2000	C366, 20/12/00	China	Zinc oxides
1999	C4, 07/01/99	Bulgaria [2]	Flat rolled products of iron or steel
1999	C10, 14/01/99	China	Yellow phosphorus
1999	C63, 05/03/99	China	Compact disc boxes
1999	C133, 13/05/99	China	Hot rolled flat steel products
1999	C133, 13/05/99	Romania [2]	Hot rolled flat steel products
1999	C151, 29/05/99	Czech Republic [2]	Cast iron tube or pipe fittings
1999	C151, 29/05/99	China	Cast iron tube or pipe fittings
1999	C181, 26/06/99	Belarus	Urea and ammonium nitrate
1999	C181, 26/06/99	Lithuania [2]	Urea and ammonium nitrate
1999	C181, 26/06/99	Russia	Urea and ammonium nitrate
1999	C181, 26/06/99	Slovakia [2]	Urea and ammonium nitrate
1999	C181, 26/06/99	Ukraine	Urea and ammonium nitrate
1999	C216, 29/07/99	China	Cathode ray picture tubes
1999	C216, 29/07/99	Lithuania [2]	Cathode ray picture tubes
1999	C231, 13/08/99	China	Hairbrushes
1999	C239, 24/08/99	China	Glycine
1999	C262, 16/09/99	China	Electronic weighing scales
1999	C262, 16/09/99	China	Coke
1999	C311, 29/10/99	Lithuania [2]	Ammonium nitrate
1999	C311, 29/10/99	Poland [2]	Ammonium nitrate
1999	C311, 29/10/99	Ukraine	Ammonium nitrate
1999	C318, 05/11/99	China	Bicycle forks
1999	C318, 05/11/99	China	Bicycle frames

Year initiated	Official Journal	Country	Product
1999	C318, 05/11/99	China	Bicycle wheels
1998	C1, 03/01/98	Poland [2]	Binder or baler twine
1998	C65, 28/02/98	Czech Republic [2]	Binder or baler twine
1998	C65, 28/02/98	Hungary [2]	Binder or baler twine
1998	C155, 20/05/98	China	Steel ropes and cables
1998	C155, 20/05/98	Ukraine	Steel ropes and cables
1998	C239, 30/07/98	Poland [2]	Steel ropes and cables
1998	C239, 30/07/98	Hungary [2]	Steel ropes and cables
1998	C353, 19/11/98	Ukraine	Seamless pipes and tubes
1997	C32, 01/11/98	China	Fax machines
1997	C130, 26/04/97	Ukraine	Potassium permanganate
1997	C205, 05/07/97	Vietnam	Monosodium glutamate
1997	C210, 11/07/97	China	Cotton fabric unbleached
1997	C211, 12/07/97	Russia	Narrow steel strips
1997	C256, 21/09/97	China	Unwrought magnesium
1997	C323, 24/10/97	China	Thiourea dioxide
1997	C324, 25/10/97	China	Laser optical reading systems
1997	C336, 07/11/97	Bulgaria [2]	Hardboard
1997	C336, 07/11/97	Estonia [2]	Hardboard
1997	C336, 07/11/97	Latvia [2]	Hardboard
1997	C336, 07/11/97	Lithuania [2]	Hardboard
1997	C336, 07/11/97	Poland [2]	Hardboard
1997	C336, 07/11/97	Russia	Hardboard
1996	C50, 21/02/96	China	Cotton fabrics unbleached
1996	C111, 17/04/96	China	Briefcases and schoolbags
1996	C111, 17/04/96	China	Luggage and travel goods
1996	C132, 04/05/96	China	Handbags
1996	C253, 31/08/96	Czech Republic [2]	Seamless pipes and tubes
1996	C253, 31/08/96	Romania [2]	Seamless pipes and tubes
1996	C253, 31/08/96	Russia	Seamless pipes and tubes
1996	C253, 31/08/96	Slovakia [2]	Seamless pipes and tubes
1996	C369, 07/12/96	China	Fasteners
1996	C381, 17/12/96	China	Ferrosilicomanganese
1995	C45, 22/02/95	China	Footwear (textile)
1995	C45, 22/02/95	China	Footwear (leather)
1995	C95, 19/04/95	China	Furfuryl alcohol
1995	C143, 09/06/95	Kazakhstan	Unwrought zinc
1995	C143, 09/06/95	Poland [2]	Unwrought zinc
1995	C143, 09/06/95	Russia	Unwrought zinc
1995	C143, 09/06/95	Ukraine	Unwrought zinc
1995	C143, 09/06/95	Uzbekistan	Unwrought zinc

Year initiated	Official Journal	Country	Product
1995	C178, 13/07/95	Poland [2]	Wooden pallets
1995	C180, 14/07/95	Czech Republic [2]	Iron or steel sections
1995	C180, 14/07/95	Hungary [2]	Iron or steel sections
1995	C266, 13/10/95	China	Glyphosate
1995	C284, 28/10/95	China	Ring binders
1994	C11, 15/01/94	Kazakhstan	Unwrought magnesium
1994	C11, 15/01/94	Russia	Unwrought magnesium
1994	C11, 15/01/94	Ukraine	Unwrought magnesium
1994	C11, 20/01/94	China	Cotton fabric
1994	C35, 23/02/94	China	Pipe or tube fittings
1994	C35, 23/02/94	Slovakia [2]	Pipe or tube fittings
1994	C64, 02/03/94	China	Persulphates
1994	C64, 02/03/94	China	Activated powdered carbon
1994	C117, 28/04/94	Poland [2]	Portland cement
1994	C117, 28/04/94	Czech Republic [2]	Portland cement
1994	C117, 28/04/94	Slovakia [2]	Portland cement
1994	C138, 20/05/94	Russia	Electrical steel sheets
1994	C138, 20/02/94	China	Coumarin
1994	C139, 21/05/94	Czech Republic [2]	Pig-iron
1994	C158, 09/06/94	Russia	Ammonium nitrate fertilizer
1994	C158, 09/06/94	Lithuania	Ammonium nitrate fertilizer
1994	C212, 03/08/94	Belarus	Polyester staple fiber
1993	C104, 15/04/93	China	Refractory chamottes
1993	C123, 05/05/93	Bulgaria	Urea ammonium nitrate
1993	C123, 05/05/93	Poland [2]	Urea ammonium nitrate
1993	C208, 31/07/93	China	Furfuraldehyde
1993	C210, 04/08/93	Russia	Ferro-silico-manganese
1993	C210, 04/08/93	Ukraine	Ferro-silico-manganese
1993	C210, 04/08/93	Georgia	Ferro-silico-manganese
1993	C302, 09/11/93	China	Furazolidone
1993	C341, 18/12/93	China	Microwave ovens
1992	L 298, 20/11/94	China	Potassium permanganate
1992	L215, 25/08/93	China	Polyolefin woven bags
1992	L226, 07/09/93	China	Flourospar
1992	L228, 09/09/93	China	Photo albums
1992	L237, 22/09/93	China	Ferro-silicon
1992	L246, 02/10/93	Russia	Isobutanol
1992	L58, 11/03/93	China	Bicycles
1992	L80, 02/04/93	Russia	Ferrochrome
1992	L80, 02/04/93	Ukraine	Ferrochrome
1992	L80, 02/04/93	Kazakhstan	Ferrochrome

Year initiated	Official Journal	Country	Product
1992	L95, 21/04/93	China	Micro-disks
1992	L120, 15/05/93	Hungary [3]	Seamless steel tubes
1992	L120, 15/05/93	Poland [3]	Seamless steel tubes
1992	L120, 15/05/93	Czech Republic [3]	Seamless steel tubes
1992	L120, 15/05/93	Slovakia [3]	Seamless steel tubes
1992	L145, 17/06/93	China	Magnesium oxide
1992	L306, 11/12/93	China	Dead burned Magnesia
1992	L127, 27/05/93	China	Paintbrushes
1992	L244, 30/09/93	China	Unwrought manganese
1991	L94, 13/04/93	Russia	Silicon carbide
1991	L94, 13/04/93	Ukraine	Silicon carbide
1991	L94, 13/04/93	China	Silicon carbide
1991	L328, 14/11/92	Poland	Seamless pipes
1991	L328, 14/11/92	Czechoslovakia	Seamless pipes
1991	L328, 14/11/92	Hungary	Seamless pipes
1991	L88, 03/04/92	China	Polyester yarns
1991	L90, 04/11/91	Albania	High carbon ferrochromium
1991	L90, 04/11/91	USSR	High carbon ferrochromium
1990	L106, 26/04/91	China	Video tapes
1990	L187, 13/07/91	China	Dihydrostreptomycin
1990	L110, 28/04/92	Russia	Potash
1990	L110, 28/04/92	Belarus	Potash
1990	L110, 28/04/92	Ukraine	Potash
1990	L183, 03/07/92	Poland	Ferrosilicon
1989	L133, 29/05/91	China	Pocket lighters
1989	L145, 08/06/90	USSR	Potassium permanganate
1989	L174, 07/07/90	China	Typewriter ribbon
1989	L187, 19/07/90	China	Woven polyolefin sacks
1989	L365, 28/12/90	China	Espadrilles
1989	L80, 27/03/90	China	Silicon metal
1989	L188, 20/07/90	Hungary	NPK fertilizers
1989	L188, 20/07/90	Poland	NPK fertilizers
1989	L188, 20/07/90	Romania	NPK fertilizers
1989	L202, 31/07/90	Czechoslovakia	Electric motors
1989	L202, 31/07/90	Bulgaria	Electric motors
1989	L202, 31/07/90	Romania	Electric motors
1988	C20, 26/01/88	China	Calcium metal
1988	C20, 26/01/88	USSR	Calcium metal
1988	C241, 16/09/88	Romania	Welded steel tubes
1988	C288, 12/11/88	China	Television receivers
1988	C308, 03/12/88	China	Barium chloride

Year initiated	Official Journal	Country	Product
1988	C308, 03/12/88	GDR	Barium chloride
1988	C322, 15/12/88	China	Ammonium paratungstate
1988	C322, 15/12/88	China	Tungstic oxide and acid
1988	C322, 15/12/88	China	Tungsten metal powder
1988	C322, 15/12/88	China	Tungsten carbide
1988	C322, 15/12/88	Bulgaria	Methenamine
1988	C322, 15/12/88	Czechoslovakia	Methenamine
1988	C322, 15/12/88	Hungary	Methenamine
1988	C322, 15/12/88	Poland	Methenamine
1988	C322, 15/12/88	Romania	Methenamine
1987	C53, 28/02/87	USSR	Mercury
1987	C77, 24/03/87	USSR	Ferro-silicon
1987	C173, 01/07/87	Romania	Polyester fiber
1987	C271, 09/10/87	Hungary	Urea
1987	C271, 09/10/87	Romania	Urea
1986	C63, 18/03/86	China	Potassium permanganate
1986	C63, 18/03/86	Czechoslovakia	Potassium permanganate
1986	C63, 18/03/86	GDR	Potassium permanganate
1986	C103, 30/04/86	China	Paintbrushes
1986	C125, 24/05/86	GDR	Polyester fiber
1986	C125, 24/05/86	Romania	Polyester fiber
1986	C254, 11/10/86	Czechoslovakia	Urea
1986	C254, 11/10/86	GDR	Urea
1986	C254, 11/10/86	USSR	Urea
1985	C84, 02/04/85	GDR	Portland cement
1985	C84, 02/04/85	Poland	Portland cement
1985	C96, 17/04/85	China	Hammers
1985	C159, 29/06/85	Romania	Acrylic fibers
1985	C200, 08/08/85	Bulgaria	Flat glass
1985	C200, 08/08/85	Czechoslovakia	Flat glass
1985	C200, 08/08/85	Hungary	Flat glass
1985	C200, 08/08/85	Romania	Flat glass
1985	C319, 11/12/85	USSR	Freezers
1985	C319, 11/12/85	GDR	Freezers
1984	C13, 19/01/84	Hungary	Horticultural glass
1984	C13, 19/01/84	GDR	Iron or steel angles
1984	C55, 28/02/84	Czechoslovakia	Skates
1984	C55, 28/02/84	GDR	Asbestos cement sheets
1984	C55, 28/02/84	Czechoslovakia	Asbestos cement sheets
1984	C67, 08/03/84	GDR	Oxalic acid
1984	C90, 31/03/84	Bulgaria	Copper sulphate

Year initiated	Official Journal	Country	Product
1984	C90, 31/03/84	Hungary	Copper sulphate
1984	C90, 31/03/84	Poland	Copper sulphate
1984	C201, 31/07/84	Hungary	Artificial corundum
1984	C201, 31/07/84	Poland	Artificial corundum
1984	C201, 31/07/84	USSR	Artificial corundum
1984	C202, 01/08/84	China	Silicon carbide
1984	C202, 01/08/84	Czechoslovakia	Silicon carbide
1984	C202, 01/08/84	Poland	Silicon carbide
1984	C202, 01/08/84	USSR	Silicon carbide
1984	C204, 03/08/84	Hungary	Skates
1984	C204, 03/08/84	Romania	Skates
1984	C235, 05/09/84	USSR	Roller chains for bicycles
1984	C235, 05/09/84	China	Roller chains for bicycles
1984	C305, 16/11/84	Bulgaria	Wood particle board
1984	C305, 16/11/84	Czechoslovakia	Wood particle board
1984	C305, 16/11/84	Poland	Wood particle board
1984	C305, 16/11/84	Romania	Wood particle board
1984	C305, 16/11/84	USSR	Wood particle board
1983	C31, 05/02/83	USSR	Unwrought nickel
1983	C31, 05/02/83	USSR	Unwrought aluminum
1983	C87, 29/03/83	Czechoslovakia	Sanitary fixtures
1983	C87, 29/03/83	Hungary	Sanitary fixtures
1983	C98, 12/04/83	China	Lithium hydroxide
1983	C109, 23/04/83	Romania	Iron or steel angles
1983	C109, 23/04/83	GDR	Choline chloride
1983	C109, 23/04/83	Romania	Choline chloride
1983	C194, 21/07/83	Czechoslovakia	Horticultural glass
1983	C194, 21/07/83	GDR	Horticultural glass
1983	C194, 21/07/83	Poland	Horticultural glass
1983	C194, 21/07/83	Romania	Horticultural glass
1983	C194, 21/07/83	USSR	Horticultural glass
1982	C8, 14/01/82	GDR	Aluminum foil
1982	C8, 14/01/82	Hungary	Aluminum foil
1982	C79, 31/03/82	GDR	Methylamines
1982	C79, 31/03/82	Romania	Methylamines
1982	C133, 25/05/82	Czechoslovakia	Perchlorethylene
1982	C133, 25/05/82	Romania	Perchlorethylene
1982	C162, 29/06/82	China	Magnesite caustic burned
1982	C162, 29/06/82	China	Magnesite deadburned
1982	C207, 10/08/82	China	Barium chloride
1982	C207, 10/08/82	GDR	Barium chloride

Year initiated	Official Journal	Country	Product
1982	C211, 13/08/82	Czechoslovakia	Methenamine
1982	C211, 13/08/82	GDR	Methenamine
1982	C211, 13/08/82	Romania	Methenamine
1982	C211, 13/08/82	USSR	Methenamine
1982	C230, 03/09/82	Czechoslovakia	Polyethylene
1982	C230, 03/09/82	GDR	Polyethylene
1982	C230, 03/09/82	Poland	Polyethylene
1982	C230, 03/09/82	USSR	Polyethylene
1982	C276, 19/10/82	China	Canned pears
1982	C310, 27/11/82	GDR	Glass textile fiber
1982	C310, 27/11/82	Czechoslovakia	Glass textile fiber
1982	C331, 17/12/82	USSR	Copper sulphate
1982	C331, 17/12/82	Czechoslovakia	Copper sulphate
1981	C35, 18/02/81	GDR	Upright pianos
1981	C35, 18/02/81	Poland	Upright pianos
1981	C71, 01/04/81	Czechoslovakia	Codeine
1981	C71, 01/04/81	Hungary	Codeine
1981	C71, 01/04/81	Poland	Codeine
1981	C162, 02/07/81	Czechoslovakia	Refrigerators
1981	C162, 02/07/81	GDR	Refrigerators
1981	C162, 02/07/81	Hungary	Refrigerators
1981	C162, 02/07/81	Poland	Refrigerators
1981	C162, 02/07/81	Romania	Refrigerators
1981	C162, 02/07/81	USSR	Refrigerators
1981	C164, 04/07/81	Bulgaria	Fiber building board
1981	C164, 04/07/81	Hungary	Fiber building board
1981	C181, 23/07/81	Czechoslovakia	Pianos
1981	C181, 23/07/81	USSR	Pianos
1981	C241, 19/09/81	China	Oxalic acid
1981	C241, 19/09/81	Czechoslovakia	Oxalic acid
1981	C241, 19/09/81	Hungary	Oxalic acid
1981	C241, 19/09/81	GDR	Oxalic acid
1981	C245, 25/09/81	Czechoslovakia	Vacuum cleaners
1981	C245, 25/09/81	GDR	Vacuum cleaners
1981	C245, 25/09/81	Poland	Vacuum cleaners
1981	C271, 23/10/81	USSR	Photographic enlargers
1981	C271, 23/10/81	Czechoslovakia	Photographic enlargers
1981	C271, 23/10/81	Poland	Photographic enlargers
1981	C271, 23/10/81	Czechoslovakia	Trichlorethylene
1981	C271, 23/10/81	GDR	Trichlorethylene
1981	C271, 23/10/81	Poland	Trichlorethylene

Year initiated	Official Journal	Country	Product
1981	C271, 23/10/81	Romania	Trichlorethylene
1981	C299, 18/11/81	Romania	Steel tubes
1981	C332, 19/12/81	Czechoslovakia	Polyvinylchloride
1981	C332, 19/12/81	GDR	Polyvinylchloride
1981	C332, 19/12/81	Hungary	Polyvinylchloride
1981	C332, 19/12/81	Romania	Polyvinylchloride
1981	C337, 24/12/81	China	Paracetamol
1980	C181, 19/07/80	USSR	Mechanical watches
1980	C219, 27/08/80	China	Furfural
1980	C296, 14/11/80	Hungary	Hermetic compressors

Notes:

[1] *Official Journal* citations are for edition C or edition L. Dates are in format: day/month/year, as per the format used in the *Official Journal.*

[2] Indicates country was reclassified as a market economy, therefore these countries are technically *former* NMEs.

[3] Country was reclassified in 1992, the year of the investigation.

Sources: European Commission, various years. *Annual Report from the Commission to the European Parliament on the Community's Anti-Dumping and Anti-Subsidy Activities*. Brussels: The European Commission; and Commission Regulations and Council Regulations, various years, *Official Journal.*

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Semester program in Russian language and culture, Leningrad State University, 1989.

Dissertation

"Are NMEs Our Enemies? Non-market Economies and Western Trade Policies"
Dissertation Committee: Margaret Levi (Chair), James Caporaso, Anthony Gill

This dissertation analyzes the causal impact of Cold War beliefs on the present implementation of Western trade policies toward non-market economies or Communist countries. Non-market economies are subjected to unusually high levels of Western trade protection. I develop a theory of belief stasis and belief change, focusing on the certainty with which a belief is held, to account for patterns of trade discrimination. Deriving belief certainty from a configuration of Western assessments of the internationally determined interests and domestically determined institutional incentives of non-market economies, I show how degree of belief certainty affects decision-making by Western trade agencies. I employ a comparative research method, juxtaposing the European Union and United States' treatment of non-market economies, to provide empirical support for my argument. I use a combination of interviews with trade officials, case study analysis, and statistical analyses to test my theory, as well as alternative hypotheses from the political economy literature.

Publications and Papers

Articles

"Distrust as a Trade Impediment: European Trade Policy Toward Non-Market Economies," in Russell Hardin, ed., *Distrust*. New York: Russell Sage Foundation, forthcoming.

"The Application of United States Anti-Dumping Laws to Non-Market Economies in Transition: Is the U.S. Sending a Mixed Message?" in Sevic and Wright, eds., *Transition in Central and Eastern Europe,* Yugoslav Association of Sasakawa Fellows, 1997.

"Does Country of Origin Impact Patterns of Trade Protection? An Examination of Anti-dumping Use by the United States." Submitted to *International Organization* for review, August 2001.

Book Reviews

Book Review of Evelyne Huber and John D. Stephens, *Development and Crisis of the Welfare State: Parties and Policies in Global Markets.* Chicago: University of Chicago Press, 2001. Review for *Comparative Political Studies,* forthcoming.

Work in Progress

"The Disappearing Case of Market Economy Treatment: Non-Market Economies and Anti-dumping Laws." Manuscript finalizing for submission.

"An Examination of Lustration Laws and their Impact on State Trustworthiness and Legitimacy in Central and Eastern Europe." Paper with Margaret Levi for Honesty and Trust Project, Budapest Collegium.

Fellowships and Academic Honors

Budapest Collegium, Budapest, Hungary. Invited as visiting fellow and participant in Honesty and Trust Project directed by Janos Kornai and Susan Rose-Ackerman, October 2002.

University of Washington Dissertation Fellowship, March-June 2001.

Selected twice as participant and paper presenter by *Society for Comparative Research/Center for Comparative Social Analysis Graduate Student Retreat for Comparative Research.* Yale University-- May 2000, and University of California at Los Angeles--May 1999.

Max-Planck-Institut für Gesellschaftsforschung (Social Science Research), Resident Research Fellow, Cologne, Germany, September- December 1999.

J. Allen Smith Fellowship, University of Washington, Spring 1997.

Graduated with Honors for Academic Achievement, Georgetown University, May 1993.

Distinction in Final Oral Examinations, Georgetown University, April 1993.

National Aeronautics and Space Agency (NASA) International Relations Fellowship, Georgetown University and NASA, August 1992 – June 1993.

Edwin Burns Scholarship for Academic Achievement, Dartmouth College, 1988 – 1991.

Conferences

"Belief Stasis as an Impediment to Policy Implementation: Non-Market Economies and Western Trade Laws." *American Political Science Association Conference*, San Francisco, August 2001.

"Lug Nuts, Mushrooms, and Aspirin: A Sector Analysis of Patterns of Trade Protection." *Western Political Science Association Conference*, Las Vegas, March 2001.

"European Union Anti-dumping Laws and Non-Market Economies: An Examination of Distrust as a Trade Policy Impediment." *International Studies Association-Northeast*, Albany, November 2000.

"An Institutional Analysis of the Application of U.S. Anti-Dumping Laws to Non-Market Economies." *Western Political Science Association Conference*, Seattle, March 1999.

"The Application of United States Anti-Dumping Laws to Non-Market Economies in Transition: Is the U.S. Sending a Mixed Message?" *Sasakawa Fellows Conference*, Belgrade, Yugoslavia, July 1997.

Teaching Experience

Instructor, Department of Political Science, University of Washington, Seattle, WA

- Comparative Political Societies (POLS 443), Winter 2002.
- International Political Economy (POLS 427), Autumn 2001.
- Introduction to International Relations (POLS 203), Summer 2000.

Director, Political Science Writing Center, University of Washington, January-June 2000.

Graduate Teaching Assistant, Department of Political Science, University of Washington

- Introduction to International Relations (POLS 203), Spring 1999.
- Introduction to International Relations (POLS 203), Winter 1999.
- American Foreign Policy (POLS 321), Autumn 1998.
- Introduction to International Relations (POLS 203), Spring 1998.
- Introduction to Politics (POLS 101), Winter 1998.
- Introduction to Politics (POLS 101), Autumn 1997.
- Introduction to Politics (POLS 101), Winter 1997.
- Introduction to International Relations (POLS 203), Autumn 1996.

Languages

Russian—research proficient
French—research proficient
Spanish—fair
German—beginner