U.S. Trade Policy and the Power to Negotiate

A Model of Presidential Power

Dominik Duell

Abstract

Separation of power and the system of checks and balances create a situation of shared authority over decision-making by different branches of government in the political system of the United States. By taking into account the political tools available to the U.S. President, I argue that U.S. Congress has a hard time to secure its position in making political decisions in areas impacted by domestic as well as international economic concerns. By referring to the case of trade policy in a simple game-theoretical model, I show that the President is more powerful than Congress within the legislative bargaining framework by using his constitutional veto power, outside by employing strategic pre-action in form of agenda setting and unilateral action, and internationally through his power to negotiate. U.S. Presidents of the last six decades had the power to influence the political struggle in such a way that their most preferred policy outcome, usually a liberal trade agenda, came about. Presidents connect interdependencies stemming from a global economy and domestic politics of redistribution effectively to implement freer markets.

1 Introduction

In August of 2007, U.S. Congress adopted a bill, which allowed federal investigation agencies to take a look at private emails and private cell phone call records without a regular judicial warrant. One month before, the same Congress agreed to the request of U.S. President George W. Bush to raise the number of troops deployed in Iraq and to stay there without any deadline demanding withdrawal. Only half a year ago, Democrats won a majority in both the House of Representatives and the Senate by a campaign regarding the need to an end of the engagement in Iraq and to restrict the President's extended use of his executive power in the "war on terror". Apparently, it took the President not even a year to make the Congress rally behind him in such major and costly issues like the war in Iraq and the war on terror on which the new legislators had taken a differing stance before.[1]

Much has been written about executive-legislative relations in the American political system; there is, of course, no last word spoken in answering the question which branch of government rules over the other or rules under which circumstances. Famous in the context of presidential power has become Richard Neustadt's (Neustadt (1960)) seminal work, assigning the "power to persuade" to the President. Through bargaining with legislators the President should be able, according to Neustadt, to change the mind of members of Congress and to push through his agenda.

Coming back to what happened this year, President Bush must have been convincing in his proposals to send more troops to Iraq without deadline and restricting civil rights. Furthermore, the President must also have persuaded the broad public in his endeavors since Democrats obviously did not fear being punished by the electorate for changing their mind or even hoped to gain through supporting Bush's policy. Bush's political stance on the contested issues have been known long

[1]While preparing this working paper, I experienced the help of many incredible smart people. I am grateful to Michael Bolle and Wayne Sandholtz for guiding me in coming up with a good idea and research design in the first place. I thank Marek Kaminski, Oliver Pamp, and Andreas Kern for their comments on technical aspects of the game-theoretical part of my paper and by doing this for their attempts to give at least some sense to my style of mathematical modeling. Finally, without Irene Weinz my skills of writing in the wonderful English language would have got stuck at elementary school-level; last but not least, I am so thankful to George W. Bush for his continuous attempts to justify overstepping his executive powers.

before the congressional elections in 2006 and thus before the Democrats decided to polemize against in their campaign but at the end the congressional majority backed down.

In times of war, as the current U.S. administration is not getting tired to point out, the executive branch has the duty and the authority to pursue what is best for the nation. This stance is indeed reflected in the U.S. constitution giving the President, as head of state, commander–in–chief, and head of the federal executive apparatus, the authority to define and implement foreign and security policy even in its domestic backlash. Nevertheless, Congress is the final lawmaker and empowered to decide upon domestic regulation. Considering the recent history of U.S. politics, however, draws a picture of a legislature being captured by the influence of the executive in converting regulation triggered by foreign policy into domestic legal acts.

1.1 Executive-Legislative Relation: The Case of Trade Policy-Making

No country exists autonomously and thus each area of policy-making is regulated due to an interplay of international actors, domestic actors more concerned with foreign policy, and domestic actors more concerned with domestic issues; outcomes of this game are due to the strength of these actors in framing debates and decisions on two levels, in which numerous actors act simultaneously in interdependent fashion. The actor or the set of actors able to move outcomes closest to their ideal outcomes is the winner of the game. Looking at the rules of the game, the polity level, in this case the U.S. constitution, gives just half the answer. The more diffuse an issue object to political debate is, the more difficult it is to draw clear statements which actor or group of actors will be the one responsible for the outcome we see.

U.S. foreign policy-making in general and U.S. trade policy in particular is such an issue. Trade policy means the regulation of economic exchange in goods and services in between the U.S. and a foreign country or another international actor as well as of trade inflows and outflows from and into the domestic sphere. Authority to regulate is separated by the constitution, giving Congress the power

to regulate commerce in Art. 1 and the President the power to make international agreements and to implement the regulation of commerce in Art. 2. Thus, we observe a structure of separated institutions sharing decision-making power of one policy-area.

Preference formation takes place in the economic sphere and is impacted by foreign affairs as well as international actors. The decision-making process involves almost all specialized departments of the executive branch, the head of the executive itself, Congress and several of its committees, special interest groups, concerns of the broad public, and even foreign or international actors. The Outcome of the decision-making process impacts different parts of society inside and outside the U.S. Empirical evaluations of the whole topic, U.S. trade policy-making, shows a high level of diffusion (Cohen (2000)). I will cover trade policy beginning with the year 1934. In this specific year, U.S. Congress adopted the *Reciprocal Tariff and Trade Act* (RTAA) giving the President legal leeway to negotiated tariff reductions for the first time. The RTAA marks the beginning of substantial delegation of international trade policy by legislature to the executive. Until 1934, international trade policy was made by periodical adoption of laws by U.S. Congress concerning changes on tariffs.

I ask, what are the tools the President uses to influence trade policy and by doing this how does the President influence outcomes? In short, how does the President make influential trade policies? The President must move policy outcome closer to his ideal, meaning most preferred outcome, triggered by his own activity. I do not ask, however, why the actors have certain preferences, although preference formation and impact of preferences on the process are a crucial part of the model. I also do not employ macroeconomic models to explain trade policy (e.g. optimal tariff theory) or try to show why free trade is beneficial and thus adopted by the U.S. political elite.

Considering recent events in American politics showing President's involvement and power in different areas of political decision-making, I expect to back one specific insight conducting this study: *The President is able to push trade policy outcomes towards his ideal point by using political action within the legislative bargaining framework through his constitutional powers, outside through strategic pre-action, and internationally through his power to negotiate.*

Trade policy-making spreads on two-levels, a domestic and an international one, requiring the activity of all branches of government sharing authority in making political decisions. Since branches are separate but involved in strategic interaction this is a study of dynamic interaction as well as a study of institutions in the context of other domestic and international ones. Thus, the model to be built combines some elements in the style of what Weingast called "new separation of power approach" (Figueiredo, Jacobi, and Weingast (2006)) but also elements mirroring what Putnam (Putnam (1988)) developed in his "two-level game"; here it is international diplomacy providing leeway for domestic actors within domestic bargains, Putnam showed it the other way round.

Internationally, states interact to regulate international trade, domestically, political and societal actors interact to define preferences and setting fundamentals for an international interaction but also for how the outcome of international interaction is transferred into a domestic one. Some scholars developed models depicting the process on each of these three stages of foreign economic policy-making. First, models of how political actors and societal actors are supposed to decide upon their foreign policy and thus their foreign economic policy (Bueno de Mesquita and Siverson (1995)). In a second step, how societal actors agree to cooperate with each other and how governments install cooperation in between countries (Lohmann (1997), Lohmann (2003)), and finally, how governments bargain internationally (Milner and Rosendorff (1996), Milner and Rosendorff (1997), Putnam (1988)). The main feature of this domestic-international game is interdependency in between what happens at both levels whereas I will focus on how actors deploy the impact of those interdependencies in the domestic game.

2 Model

2.1 Preferences, Payoffs, and the Space

Politicians hold preferences over policy outcomes. Following the theoretical framework laid down in the theory of endogenous trade policy-making (Hillman (1989), Grossman and Helpman (1994, 688), Grossman and Helpman (1995)), political actors aim at obtaining societal support, this means gathering interest group's and

voter's backing. Furthermore, they also as exhibit an agenda towards the stance of the country at the international political stage as theoretically developed in international relations theory and international political economy, which is made up by considering the interdependencies of trade with security concerns, other foreign policy, and the politician's own system of beliefs (Gawande and Krishna (2002, 8), Skalnes (2000, 5), Baldwin (1996, 156), Baldwin (1985), Keohane (1984)).

The former refers to the assumption that politicians offer policies or try to implement policies to get support (contributions, votes) to win elections or to stay in office. The latter states that politicians prefer a certain position the country should take internationally over other positions in implementing trade policies; for instance, being the leader of the "free world" has been a widely used notion in granting tariff reductions to allies in the Cold War era. This international commitment is created along the lines of ideas and perception of the standing of the nation as a whole within the international system and the role trade policy plays in sustaining or changing this stance. This second part of a political actor's agenda is made up by public, scientific, and political socialization. Assuming free trade to be basically beneficial but constrained by security issues and international regulation as necessary to avoid negative externalities is such an agenda.

Trade policy is represented in the one-dimensional policy space $X \subset \mathbb{R}$ as a range leading from protectionism and lack of international regulation of trade to free trade and presence of international regulation of trade. The larger the value of policy outcome $x^* \in X$ the more liberal is the result at the end of the political process; the smaller the value of x^* the more protectionist. The payoff a politician gets at the end of the game depends on the distance between policy outcome x^* and the by the actor most preferred policy outcome, his ideal point. The closer the outcome to the ideal point, the larger the reward each actor receives from its constituency and benefits the actor draws from implementing his personal agenda according to an ideological stance towards the country's international standing.

In this model, Congress and President receive maximal payoff, this means maximal utility, if the distance of x^* to their ideal points c and p respectively is minimized given the other actors strategies whereas $c, p \in X$. x^* is not directly attainable since policy outcomes are biased while implemented by exogenous shock ϵ; the legislative procedures, however, establishes $x \in X \subset \mathbb{R}$, which will by adding

ϵ become the final outcome x^* later on. Politicians' and thus members of Congress' and the President's optimal and most preferred policy, the position of their ideal points, depends on how societal actors reward according to how they benefit from certain policy outcomes as well as how this policy outcome will affect the country's international stance as important to the particular politician.

Because of the difficulties to represent optimally common group interests when the group is large, as famously known as "collective action problem" (Olson (1971)), winners from liberalizing trade, for example consumers, are organized to a lesser degree than losers. The latter are narrow interests such as certain branches of industries, able to lobby effectively and directly. Thus, the reward of policies offered by political actors derived from interest groups and voters is decreasing with more liberal policies being implemented.

Congress and President get more contributions from interest groups fighting liberalization costly to them than votes from consumers benefiting from freer trade not aware of decreasing prices of goods they buy. The potential to protest against further liberalization or international regulation of trade is greater than the one stemming from winners of opening up markets after they reached a certain threshold of satisfaction with the degree of liberalization. "Losers of globalizing markets protest, winners stick with their business" (Destler (2005, 140)).

Furthermore, Congress and President gain more contributions and votes through serving every constituency in each district by protecting the local-based industry through tariffs or subsidies than by lowering barriers to trade favored by the nationwide group of consumers or producers; their spending diminishes if a certain level of openness is reached. Furthermore, voters tend to consider only bad economic situations rather than if they were favorable for the particular voter or societal group in making their decision to vote and for whom to vote for; politicians get punished harder for a weak economy than rewarded for a strong economy (Lewis-Beck and Rice (1992), Lewis-Beck and Nadenau (2001)). This holds true for the societal calculation by Congress and President trying to maximize support for their policy-offer.

Therefore, reward to the politician from societal support and the country's international stance are functions of the policy outcome $S(x^*)$ respectively $I(x^*)$. Reward by societal actors due to further liberalization is assumed to decrease at an

increasing rate. Internationally, however, the country is better off by liberalizing markets at home and abroad and by doing this in a reciprocal and international regulated manner. Thus, with more free trade resulting from political activity, the reward triggered by a larger x^* is assumed to increase at an decreasing rate; at a certain point ongoing liberalization does not become more favorable anymore.

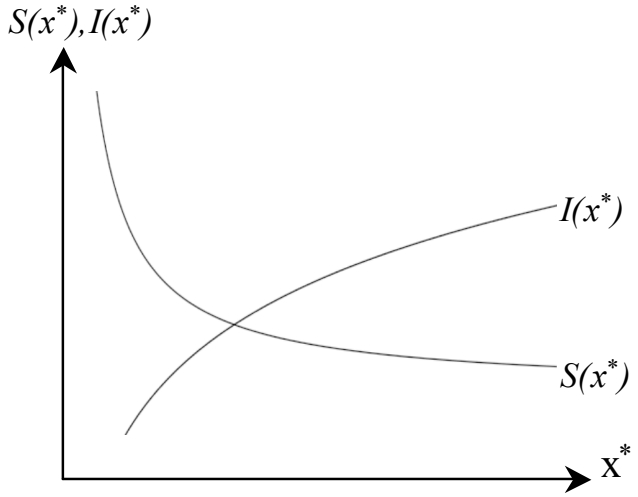

Figure 1: Societal and International Sources of Defining Political Actor's Most Preferred Policy Outcome

The optimal and most preferred policy of each politician, which constitutes their ideal points, should be located at the point where additional loss of reward from societal actors equals additional gains from enhancing the country's international stance by ongoing liberalization. Members of Congress and the President, however, weight the two distinct types of reward differently and thus their ideal points differ. Ideal points of the for this study crucial median member of Congress and of the President is assumed to be the policy outcome providing maximal reward considering $S(x^*)$ and $I(x^*)$ as well as the weighting applied to them.

Therefore, let

$$c = \arg\max_{S,I} \delta I(x^*) + (1 - \delta) S(x^*)$$

$$p = \arg\max_{S,I} \omega I(x^*) + (1-\omega)S(x^*)$$

be the x^* at which reward to Congress and the President is maximal and thus constitutes c respectively p. Furthermore, let δ and $1-\delta$ be the weight the median member of congress assigns to international or domestic sources of individual preference formation and ω and $1-\omega$ the weight the President assigns to those. Since we assume that the President is more committed to the country's international stance as impacted by international politics as is Congress and the same way Congress weights domestic, meaning legislators' district-specific, concerns higher than the President does (Rogowski (1987)), let $\delta < 1-\delta$ and $\omega > 1-\omega$.

Proposition 2.1. *In comparison to the median member of Congress' ideal policy outcome, the President is more free trade supportive. With $I(x^*)$ increasing in x^*, and $S(x^*)$ decreasing in x^*, $p > c$.*

Finally, Congress' and President's utility function is represented by $u_C(x^*) = -|c - x^*|$ respectively $u_P(x^*) = -|p - x^*|$. Preference relations are assumed to be complete, reflexive, and transitive.

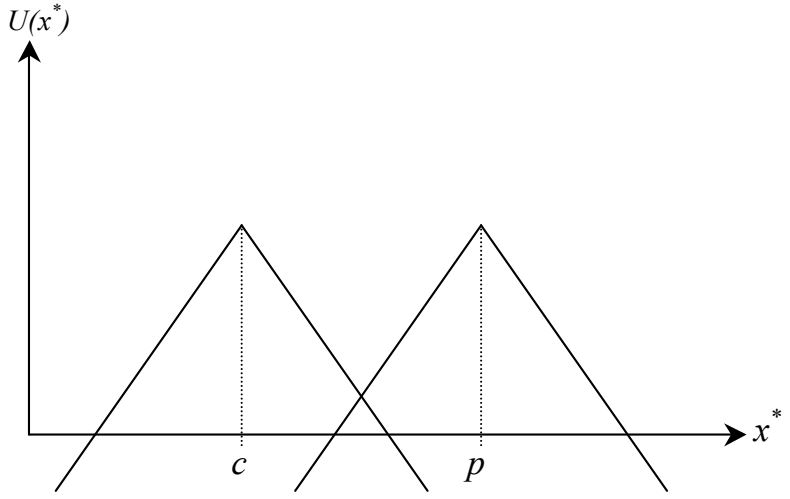

Figure 2: Rescaled Utility Function of Congress and President

2.2 Actors, Actions, and the Sequence of Moves

If the decision-making process would involve only one single actor and would not be constrained by the institutional design, this actor would implement his ideal point. Since the setting we face is one of multiple actors interacting in a framework of rules of the game, actors have to act strategically and within institutional limits.

Before the game starts, Nature N sets the exogenous shock ϵ whereas $\epsilon = 0$ means no uncertainty about the state of the world exists. Actors involved are the median member of Congress C and the President P. Both determine policy x in the executive-legislative decision-making process and exogenous shock ϵ biases x to policy outcome x^*. The status quo q represents the trade policy outcome as established in the preceding period. C and P hold ideal points over policy outcomes, which are defined as c and p. Policies and policy outcomes are drawn from the real line, on which the congressional veto pivot V represents the members of Congress whose position v is the threshold separating the veto override set from outcomes C will accept after vetoed by P. By using his agenda setting power, P is able to create the necessity to carry out international negotiations regulating trade related issues beforehand and thus sets a range of possible policy outcomes.

The domestic decision-making process itself is carried out in several steps. P sets the agenda at $p > q, c$. C provides the leeway to conduct international negotiations through delegation of authority $d \in D$ to P and P negotiates an international agreement; in case P oversteps D, C imposes costs a on P. The agreement defines a set of feasible policy outcomes O, to be regulated and implemented domestically later on in a way, which is acceptable in terms of the conditions of the international agreement made. A policy outcome at the end of the international and domestic decision-making process, which lies outside of O imposes costs o on the country and thus on P.[2]

After that C proposes a policy x to transfer the range of policies, which has been negotiated by P, into legislation at the domestic stage. P now has the power

[2]All domestic actors are affected by o but P more than C since the former weights I higher than the latter does. That means that retaliation by trade partners or loss of international credibility is more likely to hurt P's constituency and thus P. Without loss of generality I assume that only P cares about o since the relative difference in the impact of o on P and C matters.

to veto x. If x is within V, the veto pivot overrides P's veto. Depending on x adopted, C delegates again discretion D to P to implement x. C observes the implementation activity of P and punishes if x is outside the range covered by D imposing costs a on P. P, however, observes ϵ, which distorts x while being implemented and thus changes the final policy outcome to $x^* = x+\epsilon$. P is aware of the effects of ϵ and tries to convert x into x^* in a way to maximize his payoff taking into account ϵ, d, and o; o is imposed through retaliation by foreign actors and international institutions, which is triggered by observations made by those foreign partners on the level of policy outcomes. C, however imposes a after monitoring x and thus controls policies adopted, not policy outcomes.

This sequential extensive form game can be solved by backwards induction but the equilibrium outcome depends crucially on the exact value of x and x^*. Another representation is necessary to circumvent the limited static of an extensive form game. The process of establishing x and thus x^* becomes clear in opening-up the institutional frame and way of strategic interactions within a legislative game as modeled in spatial models (Cameron (2000), Howell (2003), Huber and Shipan (2002)).

x and x^* are established in a strategic game of C and P constrained by the international framing of all feasible policy outcomes O and the institutional design.

Definition 2.1. A policy outcome x^* is feasible if it lies at the boundaries of or in the feasible set of policy outcomes $O = [\underline{x}; \overline{x}]$; $\underline{x} \leqslant x^* \geqslant \overline{x}$. P sets O and faces costs o if $x^* \notin O$.

P initiates the political decision-making process if $q \neq p$. Based on the assumption that regulation of trade is necessary domestically as well as internationally and lowering barriers to trade is basically beneficial, C and P prefer $x^* > q$. After 1934, trade policies implemented almost never has fallen back behind the level of protectionism of the *Smooth-Hawley Act*. So to say, P prefers even more change away from protectionist unilateralism then C.[3] Unilateral action, meaning P sets p without constraints, is always an option for P and reaches over almost all policy areas. Since C keeps the right to establish separated legislation concerning

[3]These assumptions might seem unrealistic but are purposeful in clarifying the more general point of who impacts the position of x^* if $p \neq c$ and $c, p \neq q$. The latter is crucial for at least one of the actors to be willing to act at all.

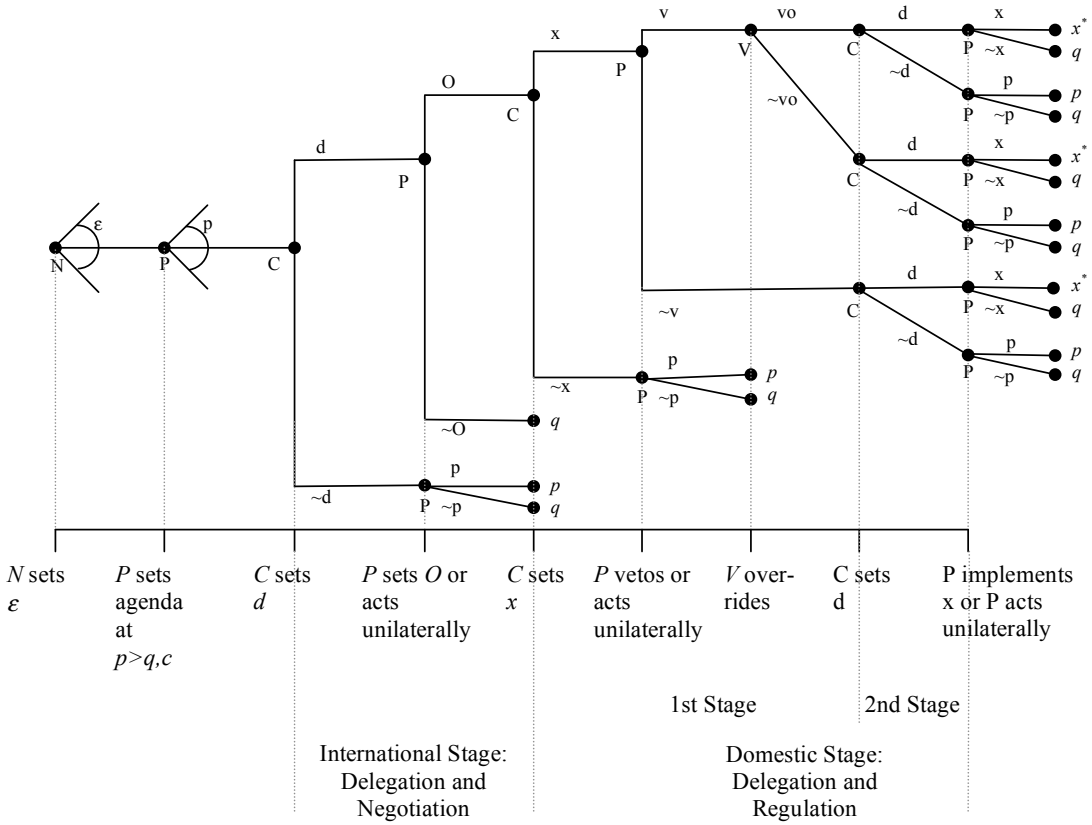

Figure 3: Sequence of Moves

the area P has covered via unilateral action or challenge legally P's action taken, costs a are imposed. P prefers to stay inside the legislative-executive process of decision-making if $a > o$. If $o > a$, she opts out since the denial by C to give authority to enact international agreements or to place a policy proposal x^* in the legislative arena and at the end not adopting $x \in O$ triggers o.

The institutional design gives P the power to veto C's proposals but the veto pivot the power to override this veto if it is outside the veto acceptance set V.

Definition 2.2. A policy proposal is outside the veto acceptance set V if it can be overruled by the veto pivot of Congress C_v. If a proposal is at the boundaries or in

the acceptance set, it cannot be overruled by C_v. The veto pivot policy proposal of Congress is the policy proposal, which the last member of Congress necessary to overrule the presidential veto prefers over the presidential proposal. A policy proposal $x^* \in V$ if $x^* \leqslant v$.

Since ideological differences between C an P exist, $c \neq p$, the size of differences in partisan stance matters. The U.S. constitution enables governments consisting of ideological differing branches; in case the majority of Congress and the President belong to different parties, the government is divided. Vice versa, if the majority of Congress and the President is member of one party, the government is unified. Nevertheless, this does not mean immediately that legislative majority and executive are partisan or not in one case or another. Both can be ideologically close even if one is Democrat and one Republican and the same way both can be ideological distant. The pivotal actor in defining Congress' ideological stance towards the executive branch is the median member of Congress. Furthermore, the distribution of different ideologies among the members of Congress is of the same importance. Congress is either ideologically fragmented or ideologically homogeneous.

Definition 2.3. The President is ideological distant to Congress if $c, v \notin O$ and thus $c, v \notin \{\underline{x}, \overline{x}\}$.

Definition 2.4. Congress is ideological fragmented if $c < p < v$.

Within the domestic decision-making process, the mechanism of adopting x takes place in a setting, in which actors have complete information about the moves the other actor is going to take and the preferences other actors have. At the first stage, information are also assumed to be perfect, which means that no exogenous shock changes outcomes or the expectations regarding outcomes. Since the implementation of regulation is necessary and ϵ is observable by P and impacting on x^* just at the stage of transferring policies adopted to the "real" world, imperfect information is introduced to the game at the second stage of domestic policy-making, the stage of implementation. At this stage $d \in D \in X$ is given to P by C to implement x moving away from q; D is the compliance body (Huber and Shipan (2002)). C observes non-compliance at the stage of policy adoption not at the level of actual outcomes whereas retaliation by foreign actors is due to non-compliance at the level of policy-outcomes.

Definition 2.5. A policy x is covered by the authority to implement, D, given by C to P if $x \in D$ whereas $D = [q; d]$ and is given by C at the policy x adopted at the first stage. Costs a are imposed on P if $x \notin D$.

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2.3 Setting Policies in the Legislative Environment

2.3.1 Ideologically Close Government

In the case, C and P are ideologically close, either if both belong to the same party or due to similar policy stances, the policy proposed and adopted under complete and perfect information depends on C's degree of fragmentation.

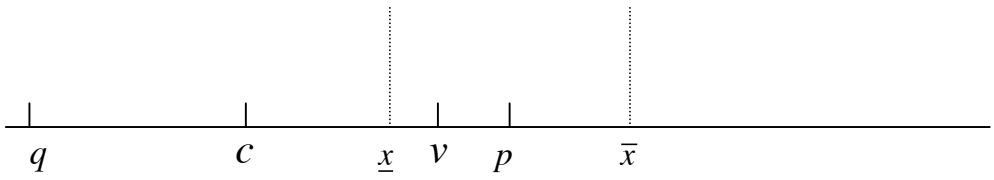

Figure 4: Ideologically Close and not Fragmented Government

If C proposes c, and P's most preferred policy outcome is even more liberalization and international regulation than the veto pivot would accept, P will veto as long as $x^* < v$. Since C anticipates P's willingness to veto, C proposes v and P does not need to veto at all (Figure 4).

If, however, P's ideal point means less liberalization than C_v prefers and C proposes c, P will veto until C proposes p (Figure 5). C's proposal needs to be in the set acceptable for P, O, and in the one acceptable to C_v, V (Ingberman and Yao (1991, 360)). In both situations, vetoing is a credible threat by P (Cameron (2000)). Furthermore, even in case that $c \notin O$ but $v \in O$, the policy adopted and the outcome do not change.

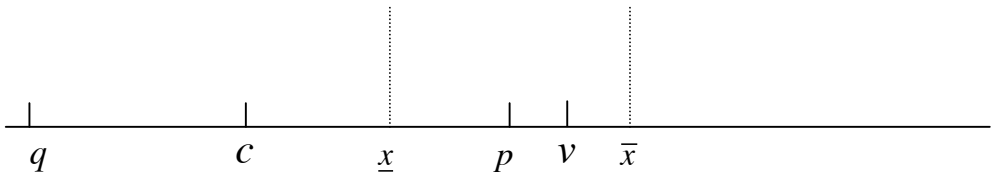

Figure 5: Ideologically Close but Fragmented Government

Proposition 2.2. *In case the government is ideologically close and Congress is not fragmented, the veto pivots policy v is adopted within the legislative framework. Facing a fragmented Congress, the President's ideal point p is agreed upon. In both cases P is able to move the policy adopted away from Congress's ideal point and towards his own ideal point.*

$$x^* = \begin{cases} v & \text{if } c < v < p \\ p & \text{if } c < p < v \end{cases}$$

2.3.2 Ideologically Distant Government

Under an ideologically distant government, more policies proposed by C are vetoed by P but overruled by V. Political gridlock is more likely, which means no policy is adopted at all. Since P has the power to act unilaterally, he would be able to adopt $x \in O$ to avoid non-compliance to international commitments made and thus o by constitutional executive acts if C proposes $x \notin O$. If P implements policies unilaterally, C or other societal actors are able to challenge those provisions legally or C is enabled to regulate the issue at stake within the legislative process. If $o > a$, C takes P's threat to act unilaterally serious and by anticipating P's willingness of acting alone, C proposes $\underline{x}$ and P does not veto. If $a > o$, P vetoes each $x < v$ but accepts v since $x > v$ is overruled by C_v after being vetoed.

Proposition 2.3. *In case the government is ideologically distant and the President*

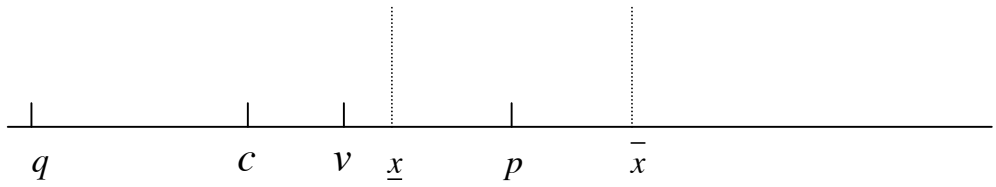

Figure 6: Ideologically Distant Government

shows a credible commitment to international agreements, a policy at the margins of international unilateralism is produced, $\underline{x}$*. Otherwise, the veto pivot once more is crucial in deciding upon the policy adopted and triggers* v*.*

$$x^* = \begin{cases} \underline{x} & \text{if } c, v < p,\ o > a \text{ and } c, v \notin O \\ v & \text{if } c, v < p,\ a > o \text{ and } c, v \notin O \end{cases}$$

2.4 Implementing Policies Facing Reality

In real politics, policies adopted never lead directly to desired outcomes. A corporate tax cut, for instance, might not improve the competitiveness of domestic companies but triggers foreign-owned firms to settle down in the country and thus increases competition. A stricter immigration law might not prevent immigrants to enter the country but also increases illegal immigration activities at the country's borders. Speaking formally, the policy outcome x^* differs from the proposal adopted by C and implemented by P of about an exogenous shock ϵ. Under imperfect information $x^* = x + \epsilon$ whereas x is now defined as the proposal at the end of the executive-legislative decision-making process before getting in contact with reality. The term exogenous shock in the context of trade includes changes in the general foreign policy of other countries, exchange rate changes, technological innovations, or changes in economic supply and demand (Milner and Rosendorff (2001, 844)).

Imperfect information also implies that at one stage of the policy-making and policy-implementing process, an actor is given some leeway to adopt x to reality $x^*+\epsilon$. This is the moment when delegation to the executive apparatus and thus the authority to adjust policies to the area of implementation comes in. The executive has the constitutional duty to implement legal acts made by the legislature. Each legislature gives some amount of discretion to the policy-implementing branch of government. Discretion differs across policy areas but always reflects the desire of C that P is able to move outcomes to position of the policy adopted before.

During the period of implementation and in preparing proposals, P observes ϵ. This ability stems from the large and diversified bureaucratic apparatus of the executive branch. P's access to information is superior to the one of C due to the formers status as head of the bureaucracy. He is enabled to gather information about reality while implementing rather than C. Without loss of generality I assume that P knows ϵ but C does not.[4]

The process of delegating authority to P for implementing x is the second stage of domestic policy-making. C decides about the amount of discretion depending on what kind of proposal has been adopted at the first stage. Proposals possible to be agreed upon are v, p, and $\underline{x}$ which are all in O. C is able to punish P by adopting a new bill diminishing discretion given before or by challenging P's activity before the courts. Control is possible through congressional oversight committees and lobbyist's detection and publication of misbehavior. P anticipates C's willingness to punish misbehavior by the executive branch and thus changes his choice.

2.4.1 Implementing Presidential Agendas

C delegates $D = [q; p]$ to cover policy $x = p$, which as been adopted in the legislative procedure before (Figure 7). In case P acts outside D, C will punish him whereas the latter evaluates x, the policy implemented not the policy outcome,

[4]Congress indeed possesses a large scientific staff and is gathering information through lobbyists. The executive branch, however, is concerned with the implementation of legislative acts for a longer period of time, long after Congress has adopted the respective bill; there is leeway since implementation takes place after adoption. In the process of decision-making P also benefits from this kind of information. Even though P is not in full control over the whole mass of federal departments and agencies and C acquires information and controls the implementation, P is assumed to know more.

in deciding to punish or not. Thus, P is constrained in his choice by D at the level of implementation but by the range of feasible x^* covered by O at the level of policy outcomes x^* where o is possible to be imposed. Since C is only able to observe P's policy implemented but cannot foresee the actual outcome, the decision to punish is based on P's overstepping of D while implementing x and not while creating x^*. P prefers to reach $x^* \in O$ since $x^* \notin O$ imposes costs o. $x \notin D$ imposes costs a.

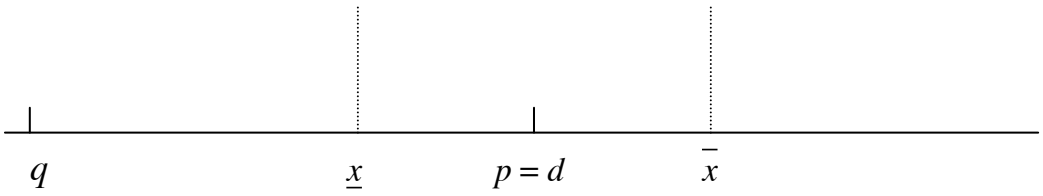

Figure 7: Discretion is Given to Implement the President's Agenda

Optimal choices of actors depend on the direction of ϵ, which can either head back towards q, $\epsilon < 0$ or towards $x = +\infty$, $\epsilon > 0$. If the exogenous shock biases outcomes towards more liberal trade policies and international regulation, $\epsilon > 0$, P is forced to implement $x \geqslant p$ but is not punished by C. An increase in world prices of a particular good, produced in the U.S., for instance, diminishes the demand of price stabilizing subsidies as well as helps to fulfill international requirements of lowering non-tariff barriers to trade like competitive advantages created by industrial policies through subsidies.

If the exogenous shock forces x outside O, policies turn out to be ineffective; P cannot implement and the executive action does not change the status quo at all. Exogenous shocks moving x towards a more protectionist outcome, $\epsilon < 0$ constrain P even more. P misses the leeway to adjust the negative events he cannot influence since D gives not enough discretion.

2.4.2 Implementing What Survived Veto Power

After P forced C to adopt v at the first stage of domestic decision-making, C sets D to implement v at $D = [q; v]$ at the second stage. If the setting is favorable for liberalization, P is sometimes able to move the outcome towards p and sometimes

even beyond his most preferred policy outcome (Figure 10). In some other cases, however, P is too constraint by D given by C so that political gridlock is possible to occur. $\epsilon > 0$ triggers more liberalizing policies even if P agreed to v and thus to more protectionist policies at the first stage. $\epsilon < 0$ creates constraints for P but also biases x^* away from c towards more protectionism.

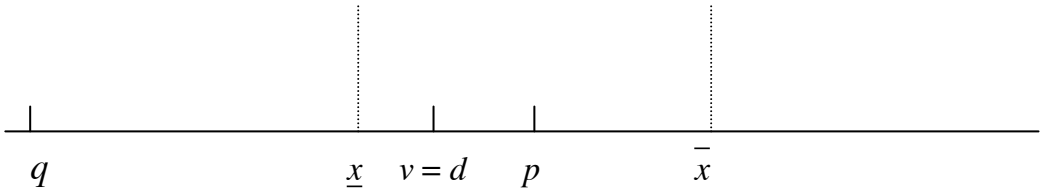

Figure 8: Discretion is Given to Implement the Veto Pivot's Agenda

2.4.3 Implementing at the Margins of Unilateralism

An ideologically distant government gives P only little room to follow a liberal agenda since C only delegates $D = [q; \underline{x}]$ to P (Figure 9). P is able to move x^* to the most liberal outcome possible considering international constraints if the environment is favorable for free trade but an unfavourable external setting gives him not enough leeway to fulfill international commitments. P at best is able to move x^* towards the margin of what is acceptable concerning commitments at the international level.

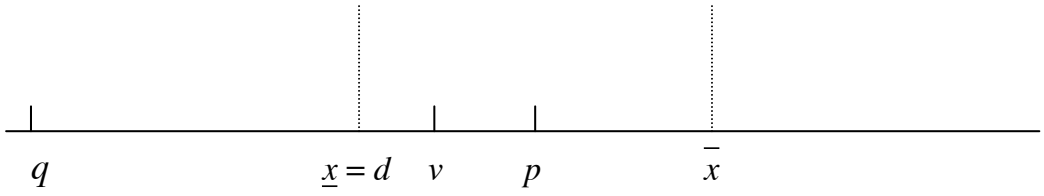

Figure 9: Discretion is Given to Implement at the Margins of Unilateralism

2.5 Strategies and Equilibria

The ideological stances of Congress and President, the fragmentation of Congress, and exogenous shocks establish a whole range of possible policy outcomes as triggerd by U.S. trade policy. Periods of liberalization are followed by the return of protectionist eras. Nevertheless, the pattern we see observing 60 years of American trade policy-making shows a bias towards liberalism, international engagement, and powerful Presidents. Indeed, considering the effect of exogenous shocks, the President's role as maker and implementer of laws, and the impact institutional setting have on outcomes, the President is able to move them closer towards his ideal point and sometimes forced to move them towards even more liberalization. The number of cases in which this is true is significant; receiving the authority to negotiate international agreements, setting a framework by what is agreed upon internationally, proposing a policy, adopting policies, and implementing them is the equilibrium path.

Proposition 2.4. *Whenever the environment is favorable for free trade, the President moves the policy outcome towards his ideal point and even further depending on the policy adopted at the first stage of domestic legislative decision-making. In unfavorable settings, however, the President is not always able to move outcomes closer to his ideal point but only in a few cases more protectionism is the result.*

$x^* \geqslant p$ *if* $\epsilon > 0$ *and* $x = p$
$x^* \leqslant p + \epsilon$ *if* $\epsilon < 0$ *and* $x = p$
$x^* \geqslant v$ *if* $\epsilon > 0$ *and* $x = v$
$x^* \leqslant v + \epsilon$ *if* $\epsilon < 0$ *and* $x = v$
$x^* \geqslant \underline{x}$ *if* $\epsilon > 0$ *and* $x = \underline{x}$
$x^* \leqslant \underline{x} + \epsilon$ *if* $\epsilon < 0$ *and* $x = \underline{x}$

Coming back to the full process of deciding upon trade policies, the President's implementation triggers policy outcomes at least as free trade promoting as the lower bound of the range of possible outcomes set in international negotiations as long as the overall economic and political situation is positive, which means $\epsilon > 0$ (bold line in Figure 10; shaded line represents x implemented facing $\epsilon < 0$).

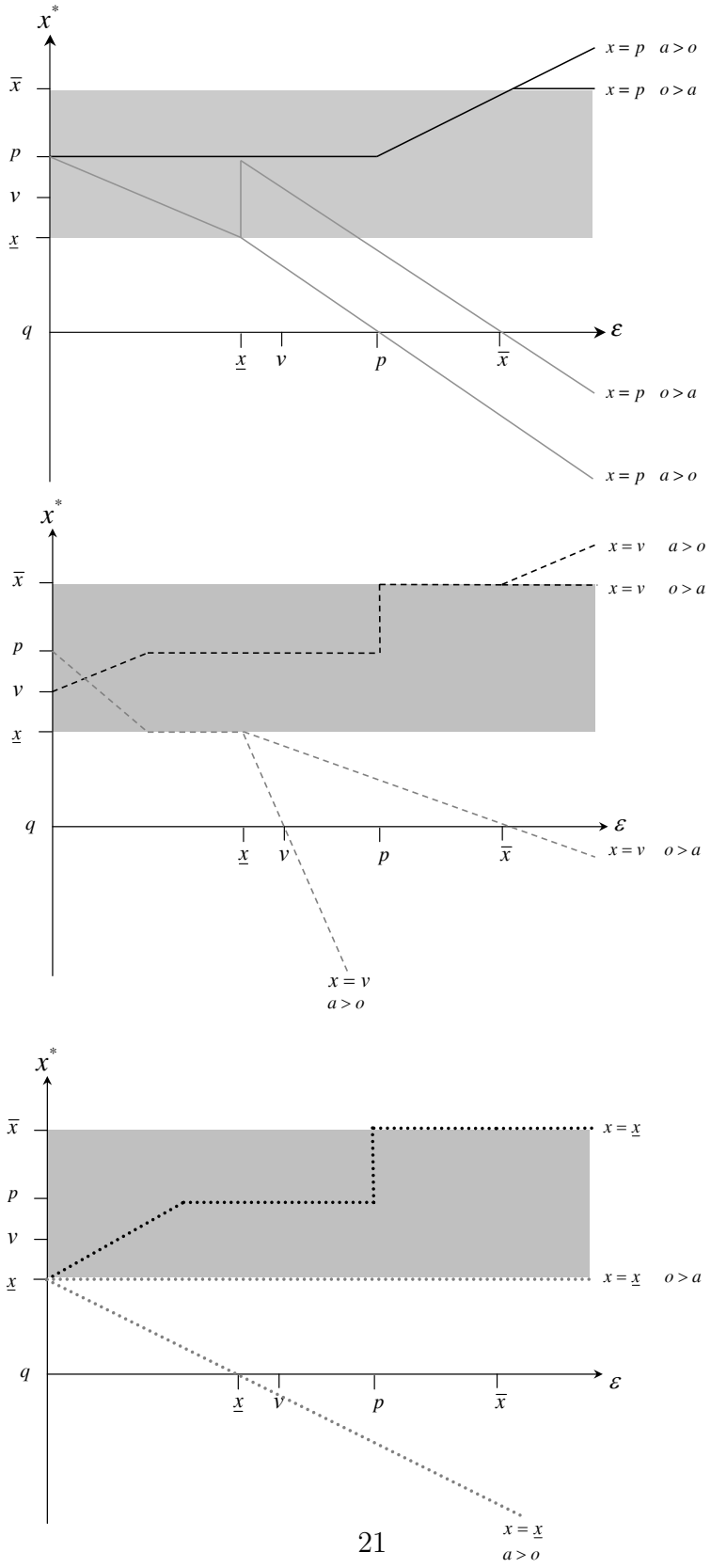

Figure 10: Policy Outcomes as Function of Particular Policies, Credible Commitments, and Exogenous Shocks

Except in cases of extremely unfavorable exogenous shocks, for instance the oil crisis of the 1970s, the President's power to set the agenda, negotiate international agreements, and his influence on the domestic decision-making process enables him to push for his ideal point meaning a more liberal policy than desired by Congress (moving up on graph in Figure 10); policy outcomes often exceed presidential efforts to liberalize and are moved by exogenous shocks further toward open markets. Furthermore, when international commitment or commitment to the domestic constituency benefiting from internationalization is credible ($o > a$), outcomes range within the set of feasible outcomes O.

At the step before, Congress delegates authority to implement what has been adopted, since the President otherwise would act unilaterally. Given that Congress anticipates policies able to be adopted close to the Presidents ideal point ($\underline{x}$, v, $p \leqslant p$), it will start the legislative decision-making process. Before that the President tries to bring international negotiations to an end since keeping the status quo does not bring him closer to his most preferred policy outcome but setting a range of feasible outcomes does. At the very beginning of the game, Congress gives the authority to negotiate because a policy established in the policy-making process turns out to be always more favorable to legislators ($x \leqslant p$) than the President's ideal point set by the latter through unilateral action.

When the environment,however, is unfavorable for free trade, P is not able to achieve his most preferred policy. A crucial role is played to that respect by D since P often is more constraint to adjust policies to the reality observed. Therefore, policy outcomes might be biased towards the congressional ideal point (Huber and Shipan (2002, 92)) but possibly also towards even more protectionism not preferred by any actor.

The hypothesis of a strong President in determining policy outcomes in settings of shared decision-making authority holds true over both stages of the domestic legislative procedure. Both, at the stage of adopting policies and at the stage of influencing policy outcomes through implementation, Presidents come closer to their ideal policy in most of the cases. Moreover, constitutional powers, the power to veto and to negotiate international agreements, as well as strategic action outside the legislative procedure, like agenda setting and unilateral action, help him to force Congress to accept policy outcomes more favorable to the President

than Congress.

3 Focal Points and Empirical Blimps

Adding some certainty to the statement that the President is crucial in defining trade policy outcomes requires to gather data at several focal points (Figure 11). First, the executive's and the legislature's agenda must differ to set a criterion, which can be used to show that policy outcomes are close to one or another of those. Agendas are based on preferences about policy outcomes, which are defined by the reward from special interests' or voters' support and the actor's ideological stances towards the position of the country within the international system. Second, trade policy is the by the legislative procedure adopted act taking into account the influence of preferential and institutional factors. The former are the President's and Congress' agenda considering fragmentation of preferences among the individual members of Congress as well as proximity or distance of preferences between both branches of government. The latter are features of the legislative procedure like presidential agenda setting and veto power as well as the congressional right to propose policies, to override vetoes, and to legitimize policies. Finally, trade policy outcomes as establish by the interplay of governmental activity and exogenous shocks.

3.1 Political Agendas

Political actor's attention given to societal actors depends on the relative influence of different interests as well as the venues existing to reach them. Throughout the last seven decades, President and Congress reacted to the existence of interest groups and public pressure in establishing their ideal policy preference. From the early 1930s until the recession of the 1970s, however, Congress remained widely inactive. The societal consensus to liberalize international economic exchange after the *Great Depression* and even more after *World War II* under the guidance of several Presidents allowed Congress to do so (Destler (2005, 6f)). Starting with the end of the 1960s and at its peak during the oil crisis, Congress began to be responsive to interest groups and public pressure as suggested by the endogenous

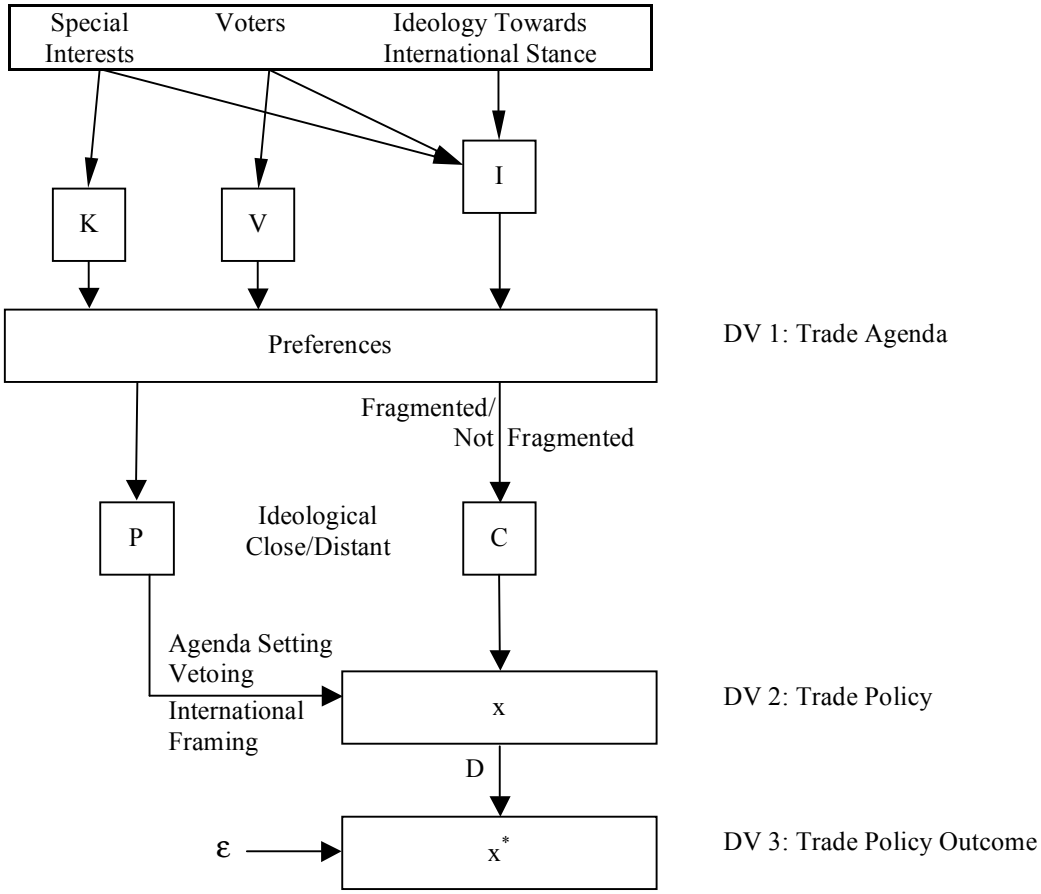

Figure 11: Focal Points of Empirical Measurement

trade policy model and turned more protectionist. Like this economic crisis as well as later-on turning points, for instance the extensive trade and budget deficit or masses of Japanese imports perceived as unfair threat to domestic companies, generated proclaimed societal demands.

A *Special Trade Representative* (STR) as well as its successor the *United States Trade Representative* (USTR) were installed by Congress to create a deliberative process coordinated by those trade representatives to derive a national position in international negotiations representing Congress' as well as the Presidents' stance. Although STR and USTR turned out to be ideological more controllable by the President, this process now involved Congress not only at the beginning, as already under the RTAA existent, and at the end, through ratification as written down

in the constitution, but also through the whole process of negotiations. Public hearings and consultations became deeply institutionalized.

Special interest groups started approaching Congress and its committees the time they got back their substantial influence on the precise outcome of international agreements (Boehmke, Gailmard, and Patty (2005, 161)). Congress opened the process to derive more knowledge from interest groups and taking account of societal demands, which also meant to be held increasingly accountable by special interests in its legislative activity. The 1970s brought a decrease of discretion given to Presidents by Congress to negotiate international trade agreements and thus restricted the range of possible policies those agreements are able to commit to. The *Trade Act of 1974*, for example, required the President and the USTR to consult the *International Commission on Trade* and debate their agenda in public committee hearings. Societal demands started focusing on this inter-branch process in pressuring for their interests. Thus, Congress was triggered by its constituency to play a more important role in setting international trade-policy and its domestic implementation raised costs of non-activity for legislators (Destler (2005, 81)).

Including non-tariff barriers to trade as objects of international negotiations during the 1970s also made it more difficult for supporters of free trade to label protectionist practices such as they had done before. Technical or safety standards imposed on foreign companies entering the U.S. obviously did not serve protectionist purposes but simple tariffs or quotas did. All that made it harder for Congress not to care about their constituencys protectionist interests and increased the efforts necessary for the President to still be influential on outcomes.

The *Trade Act of 1986* mirrors stronger pressure, especially by business, by requiring the USTR to impose retaliation if countries do not open their markets. Moreover, the *Omnibus Trade and Competitiveness Act of 1988* incorporated in addition to name and target countries using unfair barriers and practices (Cohen (2000, 220)). Basically, the political calculation of President and Congress changed whereas the formers ideal point became even less favorable for the latter and thus executive unilateral action. Thus, authority to negotiate and later-on discretion to implement still has been given.

In summary, the Protectionist backlash of that era was due to new venues for special interests to approach the decision-making process through Congress mak-

ing the whole system more transparent. Congress turned more active and tried to constrain the executive more strictly since costs of ignoring pressure became higher than costs of controlling presidential activities (Destler (2005, 185)). Rewards to members of Congress by special interest groups support was weighted increasingly and thus the Presidents' ability restricted to set an international frame. The distinct preferences of the median member of Congress and the President became more visible at the end of the 1960s and remained till the early 1990s. Interestingly enough, the more Congress articulated societal demands biasing the congressional ideal point towards protectionism, the more challenging became the distinct preferences of Presidents.

3.2 Trade Policy

Presidents received the authority to negotiate and to set an international frame for later on domestic trade regulation many times. In 1916, the Democratic congressional majority first delegated the debate on the size and scope of external tariffs to a newly installed *Trade Commission* composed of experts. So far, tariffs had been set within the congressional system of plenary debate and committee sessions. Democrats tried to sustain low tariffs against protectionist pressure by Republicans, at this time supporting the workers of the Northeastern industrial areas (Hiscox (1999)). After the *Great Depression* at the end of the 1930s, President Franklin D. Roosevelt and his Secretary of State Cordell Hull pushed Congress to grant authority to the executive to negotiate on lowering of tariffs with the main foreign trade partners on a reciprocal basis and not just grant authority to an assembly of experts.

The *Reciprocal Tariff and Trade Act of 1934* marked the beginning of Congress' pre-approval of Presidential leeway in negotiating international agreements. The executive branch had been part of regulative politics before, but Congress now legislated itself out of business pressure in adopting tariffs (Goldstein (1988)). Cordell Hull as the negotiator in charge entered 32 trade agreements in the period of 1934 to 1945 by cutting reciprocally external tariffs by 44 per cent (Destler (2005, 12)). Connecting domestic tariffs to foreign or international ones made tariff reductions more durable and trade policy more continuous. (Bailey, Goldstein,

and Weingast (1997, 310)). In the aftermath of the *RTAA* only by international agreements, Hull and other executive negotiators constrained Congress. Increasing value of trade flows entering and leaving the U.S. strengthened the interdependency of the American economy, the global economy, and the regulation of both (Bailey, Goldstein, and Weingast (1997, 327)).

From 1934 to 1962 Congress delegated authority to the President in the same manner: successive statements authorizing executive officials to negotiate reciprocal reduction of tariffs. As a result, Congress delegated power over substance and thus gave leverage and credibility to the President in negotiating with foreign countries but also space to implement the latters most preferred policy outcome, which meant trade liberalization at that time. With the end of the 1960s and the beginning of the 1970s, societal actors became aware of the redistributive character of trade policies as we have seen (Destler (2005, 181)) and policies turned more contested.

Nevertheless, the authority granted to make international agreements on tariff regulation was extended several times until 1962. Even though the Republican majority in Congress after World War II forced the President to include escape clauses into the agreements made, asked for more information about those items content to the agreements before negotiations began, and required to write into the agreements chapters granting American companies more time to adjust to tariffs lowered, U.S. trade policy was basically liberalized and influenced by Presidents activity. Several times, the head of the executive used his unilateral powers not only to establish a certain trade policy but also to structure the domestic system, which conducts international negotiations. This happened in a favorable way and fostered his agenda.

The *Trade Act of 1962* extended the executive apparatus to a three tier trade policy machinery: a cabinet decision-making group, a trade policy review group at the non-political under secretary level, and a trade policy staff committee, composed by members out of all executive departments, concerned with coordinating negotiation and implementation of trade policy across policy issues (Noland (1997, 307)). The STR linked Congress and President from now on and was required to make recommendations, consult legislature and executive, and finally balance possible differing interest. In 1963, however, John F. Kennedy placed the STR by

executive order as an executive office with own staff close to the White House (1963).

The *Trade Act of 1974* made the office, now called USTR, directly accountable for its activity to both Congress and President. Shortly after that, President Nixon elevated the USTR to cabinet level again by an executive order. The USTR was still a broker between the branches but due to its organizational proximity to the President rather influenced by the head of government (Epstein and O'Halloran (1994)). Presidents, for example, gave their political weight to the trade representative through two multilateral liberalization trade talks within the GATT framework in 1974 and 1979, to limit protectionist drift in the trade related acts of 1984 and 1988, to renew fast track authority until 1991, and to establish the trade promoting authority under the second President Bush (Destler (2005, 104)).

Fragmentation added further strength to the Presidential position (Figure 12, Poole and Rosenthal (2001, 18)). Increasing political polarization of Congress in the 1990s lead to an end of committee-based trade policy collaboration featuring the USTR as broker between Congress and President (Destler (2005, 287)) with the USTR already close to the executive office. Congressional oversight and challenges of Presidential action more often forced the President out of the bargaining framework. Unilateral action became a threat to Congress even more (Howell (2003, 84). The Chamber in opposition to the committees gained strength in imposing Congress ideal point on the President. With increasing polarization of the political stance among individual members of congress during the 1990s, a compromise between free trade supporters and protectionist interests became unlikely (Abrams, Fiorina, and Pope (2005, 78)).

Thus, trade policy now reflected preferences of the congressional majority and not the ones of a broad bipartisan consensus. Due to the more and more fixed international system of trade regulation, the USTR became more of a trade department, backed by the Presidents agenda than a broker of domestic interest conflicts. (Destler (2005, 323)). Having an ideologically close majority of Congress on his side, President Bush, however, received easily the *Trade Promotion Authority*, not as "bipartisan" as it was labeled, and kept using the legislative procedure.

In the period starting right after *The Great Depression* and during the early post-war period, the government was ideologically close and Congress not frag-

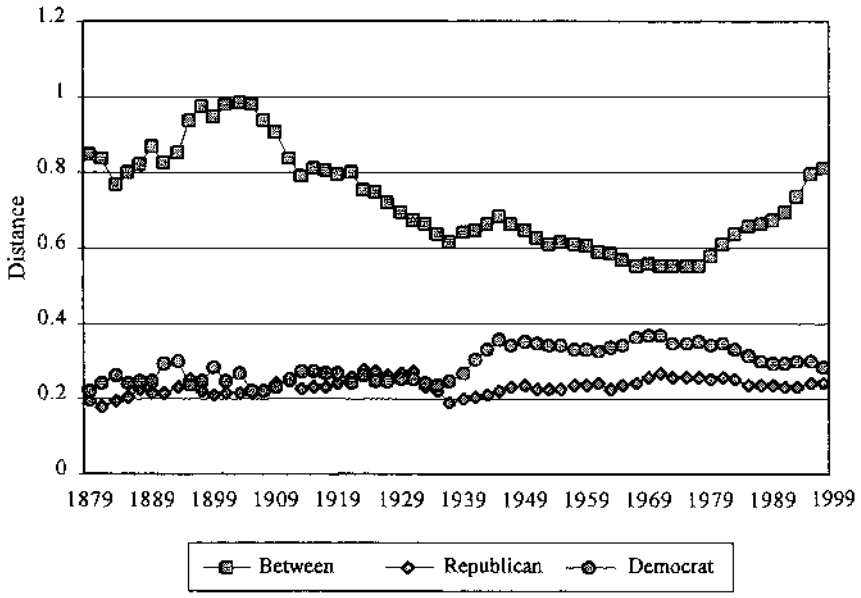

Figure 12: Fragmentation of the House of Representatives Decreased after *The Great Depression* and Increased Beginning of 1980s until today; Index Derived from Roll Call Votes of 1st to 99th Congress

mented. A consensus among political actors was possible at that time and thus international regulation and liberalization was promoted without being contested by any political or societal force. A situation of an ideologically close government but at the same time of a fragmented Congress made it easier for the President to implement their ideal points within the legislative procedure; George W. Bushs recent trade policy is supported by a Republican majority in Congress but never by Democrats. The *Trade Promotion Authority* giving leeway to Bush to implement his agenda of a network of free trade areas with small but friendly countries was heavily debated in Congress but never contested in being adopted by the President ideologically close majorities in both chambers.

Finally, ideologically distant governments, as during the Clinton-Presidency, made it impossible for Presidents to coherently push for their ideal point. Republicans heavily supported all liberalizing efforts but Democrats brought in labor and environmental standards extending the period of bargaining substantially. Clinton campaigned hard announcing the need of installing NAFTA and completing

the Uruguay Round of GATT trade talks for establishing a credible commitment giving him more leeway in pushing through his agenda (Cohen (1997, 228), Cohen (2001, 103)).

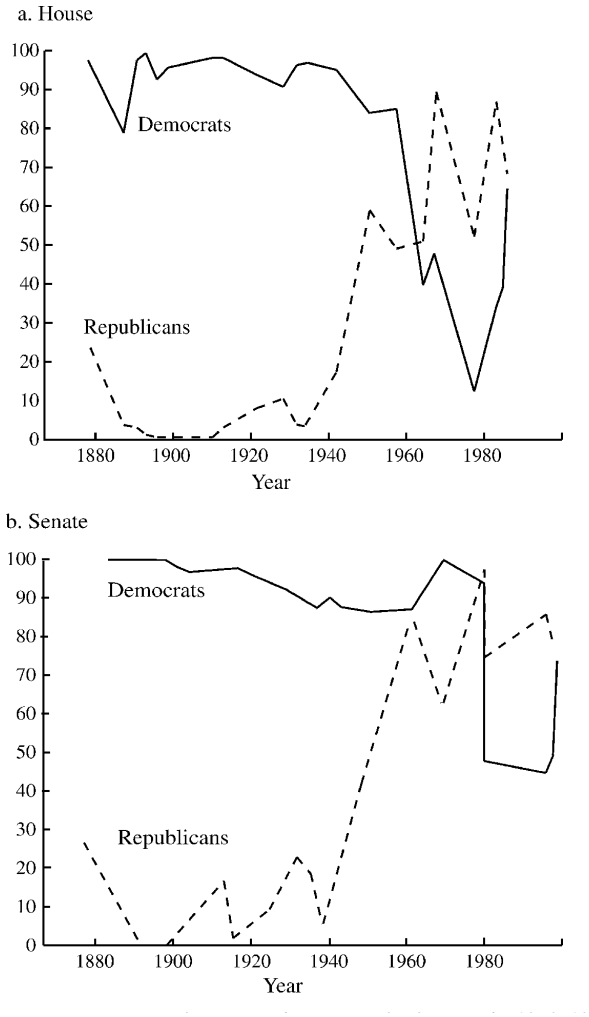

Figure 13: Voting Behavior of Both Chambers of Congress on Trade Policy Legislation, Percentage of Votes in Favor of Liberalization, 1880-2000

Comparing the ideological stance of Democrats and Republicans, by also considering which party holds the majority, with the one of the Presidents gives hints to which policies are adopted. Votes on trade acts in Congress depict the stance of both parties towards liberalization and thus the presidential most preferred policy (Figure 13, Hiscox (1999, 681)). Unified government and ideological proximity of

the congressional majority and the President results in bills close to the executives ideal point.

3.3 Trade Policy Outcomes

From 1930 to 1970 has been a favorable environment for trade liberalization since a consensus among the political elite existed. This was especially due to Roosevelt's and Cordell Hull's successful economic foreign policy and their labeling of the Smoot-Hawley act as one of the main reasons for the *Great Depression* (Goldstein (1988)). Therefore, trade was not a contested partisan issue attracting a lot of public attention (Destler (2005, 34)).

In this context, every demand of relief demands by domestic special interest could easily be labeled as protectionist and as bad for the economy as a whole. Export-oriented companies benefited from reciprocal agreements, import-competing demands could be neglected (Hiscox (1999, 679)). International commitments were met, the U.S. as leader of the movement for freeing trade remained active.

With economic decline and crisis starting at the end of the 1960s and lasting until the end of the 1980s, trade policies adopted have been biased towards protectionism. Change in preferences hold by political actors but also the unfavorable environment created more protectionist policy outcomes. Adjustment assistant and other relief to domestic companies and workers facing international pressure due to past liberalization was present and extended with each and every piece of trade regulation. In international negotiations, the U.S. pushed for escape clause criteria qualifying many industries for relief (Destler (2005, 23)).

In times of a flourishing economy and beneficial waves of freeing trade, domestic companies claimed relief but received it only in a few cases (Destler (2005, 140)). With stagflation and crisis an increasing number of requests were made now also by actual winners of globalization. Companies earning due to liberalization of foreign markets started pushing for protection of domestic markets in addition to well-known losers of globalization like the American textile industry. Beginning of the 1980s, rulings in favor of claims remained in low numbers but still increased and triggered similar policies established by the main trading partners European

Community/Union and Japan (Destler (2005, 185)). In the 1990s trade adjustment assistance to domestic companies even decrease although the *North American Free Trade Agreement* and the conclusion of the *Uruguay Round* constituted another major shift to free trade (Destler (2005, 149)).

The process of discretionary trade policy, starting with the *Trade Act of 1962*, was dominated by executive actors due to control over the process of international negotiations and their informational advantage although Congress put more restrictions on the President (Noland (1997, 366)). Even more than the general process of setting tariffs, regulating and negotiating non-tariff barriers enabled the executive to be influential by technical knowledge. Business elites demanded more active industrial politics after getting new and more visible venues, which made policies and change in policies clear to the public. The shift from broader impediments to trade (quota/tariffs) to bureaucratic barriers (AD, CVD) was triggered by that and in the same way gave more room for societal demands.

The economic environment added pressure from both export-oriented and import-competing industries creating industry-based policy demands in contrast to class-based demands before. Protectionist Republicans, representing workers, and Liberalizing Democrats, representing business, made up clear class based partisan coalitions for a certain trade policy possible until the 1960s. The change to industry-based societal demands and the end of clear-cut partisan coalitions created even more diffusion although Congress gave new venues to special interests. Executive actors thus never gave up their influential stance keeping an informational advantage by increasing complexity of the system (Hiscox (2002)).

Nevertheless and by accepting some backdrops, like the *Omnibus Trade and Competitive Act of 1988*, efforts to reduce barriers to trade is a constant of American international politics since the 1930s (Destler (2005, 69)). Liberalization even peaked in the 1990 with the *North American Free Trade Agreement* and the *World Trade Organization*. The Uruguay round concluded in 1994 finally cut tariffs by 40 per cent, installed the 10 years long lasting *Multi-Fiber Agreement*, which granted several developing countries access to textile markets, outlawed *Voluntary Export Restrictions*, restrained domestic subsidies, and introduced international contracts regarding the trade in services (*General Agreement on Trade of Services*) and trade related property rights (*Trade-related Aspects of Intellectual Property Rights*

(TRIPS)).

After that peak, international events and domestic pressure brought back the attempt to include trade policy into a grand strategy of foreign policy. The United States became again the leading military and economic power but faced increasing interdependency due to growing importance of trade. Therefore, it is not clear how patterns and structures working so far will develop in the future. Furthermore, the WTO kept the U.S. from taking unilateral action or was impacted by new ways for American trade partners to claim violations of WTO rules by the U.S.; for instance, Japan sued extensively (Destler (2005, 243)). President George W. Bush implemented the "competition in liberalization"-approach including the creation of a network of several free trade agreements having with the U.S. at its center as the most powerful member (with Jordan 2001, Chile, Singapore 2003, Australia, Morocco 2004, the *Central American Free Trade Agreement 2003*). Meanwhile, however, multinational trade negotiations within the Doha round are deadlocked.

Considering the institutional features and the overall economic conditions discussed above, Presidents moved policy outcomes in reality as shown by empirics (Table 1). Policies adopted reflect what is suggested by the model; legislation appears as President's most preferred policy p, as a legislative-executive consensus v, or as policy at the lower bound of feasible possibilities $\underline{x}$. The essence of U.S. trade policy remained, liberalization with some protectionist elements.

4 Conclusion

Opening-up the process of decision-making in U.S. trade policy and thus illuminating the relation of legislative and executive actors within the American political system provided insight into who is the most powerful actor. Nevertheless, many parts of the full procedure of who gets what in U.S. government while dealing with trade issues are still hidden.

Enriching the model of U.S. trade policy would require at least two technical and one substantive extension; technical in this context means regarding the set up of the process of decision-making and strategic interaction within the model. First, it is closer to reality to assume that Congress is able to anticipate how

	Ideological Distance	Congressional Fragmentization	Policy Adopted	Expected Policy Outcome	Environment	Policy Outcomes
Roosevelt, Truman, Eisenhower	Close	Medium and Decreasing	RTAA, numerous bilateral agreements	*p and v*	Favorable	Extensive Reduction of Tariffs, International Regulation, Trade as Foreign Aid
Kennedy, Johnson, Nixon	Distant	Low	Extension of RTAA, STR, USTR	*x*	Unfavorable	Decreased and Reciprocal Reduction of Tariffs, Increasing Demand for Trade Adjustment Assistence
Carter, Reagan	Medium	Medium and Increasing	Trade Act of 1986, 1988	*x and v*	Unfavorable	Reduction of Non-Tariff Barriers, Extensive Demand for Trade Adjustment Assistence, Procedural Protectionism
Bush, Clinton, Bush	Close	High	NAFTA, WTO, numerous FTAs	*v and p*	Favorable	Extensive International Regulation of Trade, Trade as Foreign Policy Tool

Table 1: Presidents, Political Setting, and Policy Outcomes from Roosevelt to Bush Jr.

Presidents will implement policies. Even if Congress cannot observe exogenous shocks, members of Congress observe how Presidents behave and thus infer from that the direction and size of a shock. Assigning probabilities to certain types of presidential behavior adds substantial interpretation of that kind that Congress anticipates a President as more likely to push liberalization even further. In other words, presidential willingness to comply is assumed to be known or estimable by legislators and thus can be easily introduced to the model. In this context, analyzing strategic interaction over time is needed; this kind of refinement installs a process of learning as modelled in Bayesian games.

Second, the process of international negotiations is a black box so far and only producing a certain range of outcomes assumed to be placed around the President's ideal point. Starting with Schelling and Putnam (Schelling (1960), Putnam (1988)) and modeled extensively in recent publications, domestic politics and the set up of the domestic political system impacts international negotiations (e.g. Milner and Rosendorff (1996), Milner and Rosendorff (1997)); therefore, the range of feasible policy outcomes, the President commits himself to, is also defined by other aspects and actors within the domestic system.

Finally, an interesting substantive aspect is worth to be considered as well. What happens if a President turns out to be more protectionist than Congress? Would this President be able to influence policies and polity outcomes in the same strength as the other way round? The answer is, of course, that the President should similarly be the pivotal actor. Since Presidents turned out to lean towards liberalization, however, discussing the political willingness of the chief executive to be the crucial actor is also important. Periods of gridlock in trade policy-making have been caused rather by presidential indifference than by an implicit protectionist agenda. Stagnancy in trade talks at the end of the 1990s and the beginning of the new millennium, for instance, can be easily ascribed to Clinton's tumultuous last two years in office and Bush's initial negligence of foreign policy.

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A Proofs

A.1 Formation of Preferences

Proposition A.1. *In comparison to Congress' ideal policy outcome, the President is more free trade supportive. With $S(x^*)$ decreasing and $I(x^*)$ increasing in x^* $p > c$.*

Proof. (1) Let $S(x^*) = \log x^*$ and $I(x^*) = \frac{1}{x^*}$ be a politician's two reward functions then Congress and the President define their ideal points by:

$$c = \arg\max_{S,I} \delta I(x^*) + (1-\delta)S(x^*)$$

$$p = \arg\max_{S,I} \omega I(x^*) + (1-\omega)S(x^*)$$

(2) First order condition:

$$S'(x^*) = -\frac{1}{x^{*2}} = \frac{1}{x^*} = I'(x^*)$$

$$S'_C(x^*) = -\frac{1-\delta}{x^{*2}} = \frac{\delta}{x^*} = I'_C(x^*)$$

$$\Longrightarrow x^* = -\frac{1-\delta}{\delta} = c$$

$$S'_P(x^*) = -\frac{1-\omega}{x^{*2}} = \frac{\omega}{x^*} = I'_P(x^*)$$

$$\Longrightarrow x^* = -\frac{(1-\omega)}{\omega} = p$$

(3)

$$\frac{-\frac{(1-\omega)}{\omega}}{-\frac{(1-\delta)}{\delta}} = \frac{p}{c}$$

$$\implies p = \frac{(1-\omega)\delta}{\omega_1(1-\delta)}c$$

Let $\delta < (1-\delta)$ and $\omega > (1-\omega)$ then $\frac{(1-\omega)\delta}{\omega(1-\delta)} < 1$

$$\implies p > c$$

(4) C and P maximize the utility derived from a policy outcome x^* implemented by minimizing the distance between x^* and their ideal points c respectively p.

$$\max U_C(x^*) = -|x^* - c| \implies \min |x^*| \implies x^* = c$$

$$\max U_P(x^*) = -|x^* - p| \implies \min |x^*| \implies x^* = p$$

□

A.2 Setting Policies in the Legislative Environment

x differs depending on the ideological proximity of P,C and the degree of fragmentation of C.

Proposition A.2. *In case the government is ideologically close and Congress is not fragmented, the veto pivots policy v is adopted within the legislative framework. Facing a fragmented Congress, the President's ideal point p is agreed upon. In both cases P is able to move the policy adopted away from Congress's ideal point and towards his own ideal point.*

$$x^* = \begin{cases} v & \text{if } c < v < p \\ p & \text{if } c < p < v \end{cases}$$

Proof. C and P are ideological close, $c, v \in O$
(1) if Congress is not fragmented, $c < v < p$, P vetoes all $x < v$ proposed by C

since $\forall x < v : |x - p| > |v - p|$. C proposes v since $\forall x > v : |x - c| > |v - c|$. (2) if Congress is fragmented, $c < p < v$, P vetoes all $x < p$ proposed by C and C_v cannot override since $\forall x < p : x \neq p$ and $x \in V$. □

Proposition A.3. *In case the government is ideologically distant and the President shows a credible commitment to international agreements, a policy at the margins of international unilateralism is produced, $\underline{x}$. Otherwise, the veto pivots once more is crucial in deciding upon the policy adopted and triggers v.*

$$x^* = \begin{cases} \underline{x} & \text{if } c, v < p,\ o > a \text{ and } c, v \notin O \\ v & \text{if } c, v < p,\ a > o \text{ and } c, v \notin O \end{cases}$$

Proof. C and P are ideologically distant, $c, v \notin O$

(1) if $o > a$, P unilaterally implements p if $x \notin O$. C proposes $\underline{x}$ since $\underline{x}$ minimizes $|x - p|$ and P accepts $\underline{x}$ since he prefers $x \in O$ and thus faces no costs at all. (2) if, however, $a > o$, P vetoes as long as $x < v$ as proposed by C. Since each $x > v$ vetoed by P will be overridden by C_v, P accepts v. All this is anticipated by C, which proposes v in the first place. □

A.3 Implementing Policies Facing Reality

x^* varies due to differing values of x and the size of ϵ.

Proposition A.4. *Whenever the environment is favorable for free trade, the President moves the policy outcome towards his ideal point and even further depending on the policy adopted at the first stage of domestic legislative decision-making. In unfavorable settings, however, the President is not always able to move outcomes closer to his ideal point but only in a few cases more protectionism is the result.*

$x^* \geqslant p$	*if* $\epsilon > 0$ *and* $x = p$
$x^* \leqslant p + \epsilon$	*if* $\epsilon < 0$ *and* $x = p$
$x^* \geqslant v$	*if* $\epsilon > 0$ *and* $x = v$
$x^* \leqslant v + \epsilon$	*if* $\epsilon < 0$ *and* $x = v$
$x^* \geqslant \underline{x}$	*if* $\epsilon > 0$ *and* $x = \underline{x}$

$x^* \leqslant \underline{x} + \epsilon$ *if* $\epsilon < 0$ *and* $x = \underline{x}$

Proof. (1) Implementing Presidential Agendas in a Free Trade Favorable Environment – $x = p$ and $\epsilon > 0$

$$x^* = \begin{cases} p & \text{if } \epsilon > 0 \text{ and } \epsilon \leqslant p \\ q + \epsilon & \text{if } \epsilon > 0 \text{ and } p < \epsilon \leqslant \overline{x} \text{ or } \epsilon > \overline{x} \text{ and } a > o \\ \overline{x} & \text{if } \epsilon > 0,\ \epsilon > \overline{x}, \text{ and } o > a \end{cases}$$

If P observes $\epsilon \leqslant p$ and implements $p - \epsilon$ to minimize $|x^* - p|$; C does not punish since $p \in D$ and $x^* = x + \epsilon = (p - \epsilon) + \epsilon = p$. Otherwise, if P observes $p < \epsilon \leqslant \overline{x}$, P implements depending on a and o, which is triggered by $x + \epsilon \notin O$ respectively $x \in D$. If $a > o$, P implements q since she prefers paying o over facing a thus $x^* = q + \epsilon$; in the case, $\epsilon > \overline{x}$, the result remains the same. If, however, $\epsilon > \overline{x}$ and $o > a$, P implements $\overline{x} - \epsilon$ and C will punish but P prefers being punished by C over overstepping O.

$\Longrightarrow x^* \geqslant p \forall x = p$ and $\epsilon > 0$

(2) Implementing Presidential Agendas in a Free Trade Unfavorable Environment – $x = p$ and $\epsilon < 0$

$$x^* = \begin{cases} p + \epsilon & \text{if } \epsilon < 0 \text{ and } \epsilon \leqslant \overline{x} - p \\ \overline{x} + \epsilon & \text{if } \epsilon < 0,\ \epsilon > p - \underline{x} \text{ and } o > a \\ p + \epsilon & \text{if } \epsilon < 0,\ \epsilon > p - \underline{x} \text{ and } a > o \end{cases}$$

If $\epsilon < 0$ and $\epsilon \leqslant \overline{x} - p$, P implements p and thus $x^* = p + \epsilon$. C will not punish since $p \in D$. If $\epsilon < 0$ and $\overline{x} - p < \epsilon$, P implements $\overline{x}$ and thus triggers $x^* = \overline{x} + \epsilon$ if $o > a$ and is setting p and thus ends up with $p + \epsilon$ if $a > o$. In the first case, she prefers avoiding violating O to overstepping D, in the second case, vice versa. P implements $\overline{x}$ if $o > a$ since $x^* = \overline{x} + \epsilon$ minimizes o and $|x^* - p|$ but if $a > o$, P implements ϵ since $x^* = p + \epsilon$ minimizes a and $|x^* - p|$.

$\Longrightarrow x^* \leqslant p + \epsilon \forall x = p$ and $\epsilon < 0$

(3) Implementing What Survived Veto Power in a Free Trade Favorable Environment – $x = v$ and $\epsilon > 0$

$$x^* = \begin{cases} v + \epsilon & \text{if } \epsilon > 0 \text{ and } p - v > \epsilon \\ p & \text{if } \epsilon > 0 \text{ and } p - v \leqslant \epsilon \leqslant p \\ q + \epsilon & \text{if } \epsilon > 0,\ \epsilon > p \text{ and } a > o \\ \overline{x} & \text{if } \epsilon > 0, \epsilon > p \text{ and } o > a \end{cases}$$

If $\epsilon < p - v$, P sets v, C does not punish since $v \in D$, and $x^* = v + \epsilon$. If, however, $p - v \leqslant \epsilon \leqslant p$, P implements $p - \epsilon$ and C does not punish since $p - \epsilon \in D$; $x^* = (p - \epsilon) + \epsilon = p$. In case $p < \epsilon$ and $a > o$, P chooses q, C does not punish, and $x^* = q + \epsilon$, which minimizes $|x^* - p|$; if, however, $o > a$, P prefers avoiding o over circumventing a, he implements $\overline{x} - \epsilon$ leaving $x^* = \overline{x}$, which also minimizes $|x^* - p|$.

$\Longrightarrow x^* \geqslant v \forall x = v$ and $\epsilon > 0$

(4) Implementing What Survived Veto Power in a Free Trade Unfavorable Environment – $x = v$ and $\epsilon < 0$

$$x^* = \begin{cases} v + \epsilon & \text{if } \epsilon < 0 \text{ and } \epsilon \leqslant v - \underline{x} \\ \underline{x} & \text{if } \epsilon < 0 \text{ and } v - \underline{x} < \epsilon \leqslant \overline{x} - \underline{x}, \text{ and } o > a \\ v + \epsilon & \text{if } \epsilon < 0 \text{ and } v - \underline{x} < \epsilon \leqslant \overline{x} - \underline{x}, \text{ and } a > o \\ \overline{x} + \epsilon & \text{if } \epsilon < 0,\ \epsilon > \overline{x} - \underline{x} \text{ and } o > a \\ v + \epsilon & \text{if } \epsilon < 0,\ \epsilon > \overline{x} - \underline{x} \text{ and } a > o \end{cases}$$

If $\epsilon \leqslant v - \underline{x}$, P implements v, C will not punish since $v \in D$, and $x^* = v - \epsilon \in O$. In case $v - \underline{x} < \epsilon \leqslant \overline{x} - \underline{x}$, P implements $\underline{x} + \epsilon$ if $o > a$, since he prefers getting punished by C due to $x > d$ then $x^* \notin O$. If, however, $a > o$ P will set v since he prefers being imposed a over being imposed o. In the case, $\epsilon > \overline{x} - \underline{x}$ and $o > a$, P implements $\overline{x}$ since he prefers minimizing o over minimizing a. If, however, $a > 0$

P will set v since he ranks minimizing a higher then minimizing o in the latter case; both choices minimize $|x^* - p|$ in the respective situation.

$\implies x^* \leqslant v + \epsilon \forall x = v$ and $\epsilon < 0$

(5) Implementing at the Margins of Unilateralism in a Free Trade Favorable Environment $x = \underline{x}$ and $\epsilon > 0$

$$x^* = \begin{cases} \underline{x} + \epsilon & \text{if } \epsilon > 0 \text{ and } \epsilon < p - \underline{x} \\ p & \text{if } \epsilon > 0 \text{ and } p - \underline{x} \leqslant \epsilon \leqslant p \\ q + \epsilon & \text{if } \epsilon > 0,\ p < \epsilon, \text{ and } a > o \\ \overline{x} & \text{if } \epsilon > 0,\ p < \epsilon, \text{ and } o > a \end{cases}$$

If $\epsilon < p - \underline{x}$, P sets $\underline{x}$, and will not get punished by C since $\underline{x} = d$; thus $x^* = \underline{x} + \epsilon \in O$. In case $p - \underline{x} \leqslant \epsilon \leqslant p$, P will set $p - \epsilon$, C will not punish since $p - \epsilon \leqslant d$, and $x^* = p$. Otherwise, if $\overline{x} < \epsilon$ and $a > o$ P prefers facing a over facing o, implements q and C will not punish since $q \in D$; thus, $x^* = q + \epsilon$. If, however, $o > a$, P prefers to avoid o over to avoid a and thus sets $\overline{x} - \epsilon$; $x^* = \overline{x} \in O$. P minimizes $|x^* - p|$ in both situations.

$\implies x^* = \overline{x} \forall x = \underline{x}$ and $\epsilon > 0$

(6) Implementing at the Margins of Unilateralism in a Free Trade Unfavorable Environment – $x = \underline{x}$ and $\epsilon < 0$

$$x^* = \begin{cases} \underline{x} & \text{if } \epsilon < 0 \text{ and } o > a \\ \underline{x} + \epsilon & \text{if } \epsilon < 0 \text{ and } a > o \end{cases}$$

If $o > a$ P implements $\underline{x} + |\epsilon|$ and $x^* = \underline{x} \in O$ to minimize o and $|x^* - p|$. If, however, $a > o$ P sets $\underline{x} \in D$ to minimize a and $|x^* - p|$, C does not punish, and $x^* = \underline{x} - |\epsilon|$.

$\implies x^* \leqslant \underline{x} \forall x = \underline{x}$ and $\epsilon < 0$

□