Dolphins and Tuna, Shrimp and Turtles: An American Tale or Policymaking Goes Global?

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We have acknowledged for some years now the crucial importance of the location of how issues are defined, and, in consequence, the policy network[1] that surrounds them.[2] If atomic power or pesticides are defined as indubitably valuable goods whose production is technically challenging, their governance is entrusted to a limited number of bureaucrats, scientists and politicians: once atomic power and pesticides were understood to be life threatening, the policy communities that encompassed the issue also changed dramatically[3]. The issues involved were no longer discussed by a small group of experts and key decision makers but were instead contested by a much broader and wider array of interest groups and politicians. The arena in which decisions were made, the groups, politicians and interest groups involved all changed; so did the types of policy that were produced. The exact causal chain that links changes in policy communities to changes in policy outcomes remains murky; there does, however, seem to be a strong link between the two.

The reasons why policies come to be defined and understood differently are also opaque. Popular explanations, by no means mutually exclusive, suggest that sudden negative publicity for that policies are redefined because of revelations such as those of the “muck rakers” or Ralph Nader, the emergence of a critical social movement, a shift in values such as Inglehart’s idea of “post material” attitudes and the creation of new interest groups such as public interest groups. Another source of instability in policy communities is that increasingly in modern government, policy communities collide. What were once exclusively matters of agricultural policy now become matters of environmental, consumer protection, budgetary or international trade policy. There is indeed an irony in the fact that the concept of issue networks became popular at the moment when the boundaries of issue networks became more porous or confused than ever before. Politicians and bureaucrats frequently complain that, as one said to me, ‘You can’t do anything nowadays on any issue without
running into five or six agencies who think that their vital interests are involved.”

One of the most important causes for policy community boundaries become more confused and porous is the internationalization of policy making. As David Vogel has noted, the drive towards trade liberalization led by the United States since the Second World War has reached the point at which tariffs, particularly on industrial goods, are no longer significant. International trade negotiations today are more likely to focus on Non Tariff Barriers (NTBs) that restrict access to a nation’s markets, a form of disguised protectionism. One person’s NTB is however, another person’s favorite consumer protection regulation or law. Many if not most NTBs are adopted for reasons that are completely disconnected from trade policy. Unfortunately, at least some NTBs are adopted as a disguised form of protectionism. Establishing whether an NTB is indeed an illicit form of protectionism contrary to international trade law or the pursuit of a desirable, even essential policy goal by a sovereign nation is difficult, perhaps at times impossible. Are Europeans genuinely averse to beef produced from cattle that have been given growth hormones or are they merely trying to protect their own farmers from American competition? Is the European Union’s opposition to “noise kits” for older aircraft genuinely based on a desire to promote the adoption of newer, more environmentally friendly aircraft or is it based instead on antipathy to a product manufactured only in the US that reduces demand for new aircraft made, inter alia, by Airbus Industrie? Abandoning a policy on the grounds that it constitutes an NTB is difficult for any country as it is highly to involve offending the agency responsible for the policy and the groups that support it, often advancing high moral reasons for their attitudes.

The United States is in a special position in trade policy, and also one that places it in a particularly awkward position over NTBs. In the first place, the United States is the architect of the current international trading system. The United States was the architect of the World Trade Organization (WTO); there is also general agreement that further trade liberalization is dependent on American leadership. The United States believes that notwithstanding the significant barriers to foreign competitors entering the US market, its economy is one of the most open in the world. On the other hand, American exporters face numerous trade barriers in foreign countries creating an imbalance between the United States and some of its trading partners, most notoriously in the past Japan, now in the case of China. The United States feels that it has a great deal to gain from the removal of NTBs through authoritative international institutions capable of delineating and demanding the removal of NTBs. The United States was not surprisingly a leading campaigner for the creation of the World trade Organization (WTO) and filed the overwhelming majority of the initial cases brought before it.

On the other hand, if the United States is itself the subject of a successful complaint to the WTO by another nation, it has many obvious problems in removing NTBs itself. In the first place, many American NTBs
are embedded in laws that must be repealed through the normal but cumbersome legislative process, overcoming the “obstacle course on Capital Hill.” Regulations, the most important from of policy making in many of these areas, are almost equally difficult to rescind; the courts have ruled that the procedure for repealing a regulation must be as full and elaborate as the procedures to enact one under the Administrative Procedures Act. The United States also has one of the largest and most professionalized public interest movements in the world, highly committed to the defense of what to other countries may be NTBs and, in some cases, hostile to international trade. Finally, federalism limits the ability of the United States to comply with international agreements. The “buy American” policies of many states (and local governments) conflict with the spirit of open access to government contracts adopted in by the WTO and member nations in the Uruguay Round. The ability of American states to follow policies that conflict with treaties is currently being litigated as before the Supreme Court in a case concerning the freedom of American states to sentence children to death in contravention of an agreement concerning human rights the United States ratified during the Carter Presidency.

The internationalization of what was once purely a matter of domestic policy and the domestication of what was once foreign policy leads to what might be regarded as a considerable expansion of policy networks[5] or, more plausibly, conflict between policy networks. Indeed, it is highly likely that there will be the sort of situation described by Putnam as double edged diplomacy or as two level games.[6]

Policy makers must make two sets of calculations simultaneously; what can they achieve in dealings with other nations, and what can they achieve in domestic politics? How can these two different sets of games be brought together? This paper goes beyond Putnam, however, in suggesting that the policy networks that collide are not merely static political situations but are dynamic. Both international and domestic policy networks are evolving, in short. There is no guarantee, however, that evolution of these networks is necessarily in the same direction or at the same speed as the other.

The Environmental Policy Network

American environmental policy emerges from a distinctive policy network. It is a highly pluralistic network, encompassing not only representatives of business and other producer interests but a wide array of environmental groups that to an important degree compete with each other for membership and the right to claim to represent the public interest. While the environmental groups do not enjoy the same resources as corporations
and business groups, they are sufficiently powerful to enjoy real success in Washington. The pluralistic policy network is embedded in an institutional setting that facilitates access for all groups through rules and laws requiring agencies to hold on the record public hearings and allowing groups to go to court to compel action by agencies to implement standards embedded in environmental laws.

The US environmental policy process has not wanted for critics, however. The process has often been described as highly conflictual and legalistic with much antagonism and little cooperation between the interests involved. Interest groups face considerable problems in achieving cooperation. The complexity of separated institutions sharing powers makes compromises hard to attain as losers in policy forum (for example the EPA) can shift to another forum such as Congress where they have more support. Moreover, the intense competition between groups for members in both the business and public interest group sectors inhibits compromise; groups that compromise may be labeled weak ‘sell outs” by their rivals. In consequence, American regulation has been seen as generating more conflict for fewer results than its counterpart in other democracies.

Yet, as noted above, policy networks evolve. It can be argued that the preceding characterization of the American system was a better description of the 1970s and early 1980s than of the late 1990s. The last fifteen years have seen increasing experimentation with practices such as negotiating regulations between interested groups (reg negs) and the bubble concept that allows the trading of pollution between different plants in order to allow businesses to choose which pollution sources are essential to their operations and which they can sacrifice to the goals of environmental protection. There are of course still many disagreements in the environmental policy network. The need to adopt a sufficiently dramatic style in order to raise funds from activists and the intensity of their environmentalist ideology prevents some groups from compromising. Yet overall, there is considerable movement towards experimentation with new forms of regulation geared more towards compromise than conflict.[7]

The reasons for this shift towards compromise are obvious. In brief, both environmental and business groups have come to realize that they cannot attain their ideals and that it is preferable, therefore, to settle for their second best alternatives than to lose totally. Environmental groups have been largely on the defensive since the 1970s. On the other hand, business groups were forced to recognize in both the early 1980s and mid 1990s that their hopes of a substantial roll back in environmental regulations following the Reagan and Republican Congressional victories were in practice unattainable. Business came to realize that even under optimal
circumstances (Reagan in the White House or Gingrich in the House Speakership with a Republican majority in the Senate also) environmental laws were not going to be repealed. The Reagan/Bush Presidencies and the 1994 Republican victories in Congressional elections served to remind environmentalists, however, that their position, too, was sufficiently precarious to make extremism or inflexibility dangerous. In short, both environmentalists and their business opponents were inclined to see that total victory was unlikely, and that any progress in solving their most pressing problems would require a greater willingness to compromise.

The trade policy networks have differed considerably in the past from the environmental policy network. The use of the plural “networks” here is to highlight the fact that there are two trade policy networks that are somewhat different and are at slightly different levels of evolution. From the 1930s until roughly the mid 1970s, trade policy was in the hands of policy makers who enjoyed significant autonomy from domestic protectionist pressures. This surprising autonomy was described in the period of then 1950s/60s by Bauer, Poole and Dexter, and for later periods by Destler, even though he expressed considerable concerns in the 1980s that this autonomy which he regarded as essential for the continuance of trade liberalizing policies was eroding.

Why did this autonomy exist? Bauer, Poole and Dexter suggested that the pressures on legislators on trade issues were weaker and more divided than might have been expected; Congress heard from both trade liberalizing exporters and protectionist industries, but neither exerted formidable pressure. But this raises another question: why were these pressures so weak? It is surely relevant that the period Bauer, Poole and Dexter studied was the period of American economic dominance when American industries were highly successful in world markets and, like the giant automobile manufacturers, totally dominated the domestic market without significant foreign competition. The intellectual triumph of trade liberalization coupled with the leadership role of the United States in the Cold War were also contributory factors. In the period Destler analyzes, American industries had come under severe competitive pressure in both domestic and foreign markets making the autonomy he described the more important. Trade policy was in the hands of senior figures in congress subject to little electoral threat and the U.S. Trade Representative. Although the USTR had been created to be more responsive to Congress than the State Department which had handled trade prior to the creation of the USTR, the USTR in practice was usually someone of great political skill with the trust of the President. This is less true of Barshefsky, the current USTR, but was amply demonstrated by Clinton’s first USTR, Micky Kantor,
the president’s friend and political confidant. The office has evolved in practice into a presidentially dominated agency that provides leadership in the direction of trade liberalization. Finally, presidential dominance (and all modern presidents have been trade liberalizers) was guaranteed by the willingness of Congress to cede them Fast Track authority under which presidents (in practice the USTR) was allowed to negotiate trade liberalizing agreements with other countries while Congress promised to accept or reject the agreement in its entirety without amendment within a specified time period. It is interesting to speculate on what similar arrangements might have meant in domestic policy making, for example on health care.

Yet as Destler warned, the autonomy of trade policy makers diminished. Some of the reasons for this reduced autonomy were unrelated to trade politics; Congressional trade leaders, for example, lost autonomy because of a wide ranging reform movement. Yet it is clearly the case, as Destler has argued in his most recent work, that the maintenance of a liberal trade policy has been dependent on the mobilization of pro trade interests to counteract the protectionist interests that have gained strength considerably in recent decades. The protectionist coalition based on labor which defected from the trade liberalizing coalition in the 1970s and has been joined by important public interest groups has lost important battles such as NAFTA and the approval of the Uruguay Round of GATT. It has also won important battles, including the continued denial to President Clinton of Fast track authority since 1995. The protectionist coalition might have enjoyed still greater success had it not been for the defection of industries once central to it such as textiles and apparel, many of whose members supported NAFTA because they see moving production to Mexico as a solution to their commercial problems. As important as the shifting coalitions in trade politics, however, has been the change in the character of the policy community. Trade has gone from being a relatively closed policy network constrained by outside forces to one in which policy is contested. The fights to secure the ratification of the Uruguay Round of GATT and NAFTA were classic examples of the widening of the field of conflict. Large numbers of groups and people around the country became involved in the issue; particularly in the struggle to ratify NAFTA, the full involvement of the President and the resources of his office was necessary before the requisite votes in Congress could be found. Numerous examples of log rolling were involved as the President bought votes in series of deals some concerning trade (such as continued protection for the inedible Florida tomato) and many on non-trade issues (such as defense contracts.) Although GATT and NAFTA ratification were not a partisan fights – President Clinton has received more Republican than Democratic support on trade issues – they were contests that
reached out far beyond the normal trade policy network producing extensive conflict among antagonistic groups. In a sense, therefore, the trade policy network has become more like the old environmental policy network: a collection of mutually antagonistic groups and actors who distrust each other’s goals and motives, and who even disagree on the nature of the problem they are addressing.

What of the international trade policy network? This network is still highly insulated and has “organized out” of the policy process most of the groups likely to disagree with prevailing policy approaches. The WTO and its predecessor, GATT, have a predisposition towards trade liberalization. GATT is wider reaching than GATT and makes it easier for countries that feel themselves to be the victims of trade discrimination such as NTBs to obtain redress through a judicial style hearing before a disputes panel. Under GATT any country, including the country being complained against, could veto the creation of such a panel; under WTO no country, not even the country complained against, can block a complaints panel. Although there are important differences between countries, the WTO has tended to be a gathering of like minded government officials who share a belief in trade liberalization. One former official of the organization described the WTO as “the place where governments collude in private against their domestic pressure groups. Allowing NGOs [Non Governmental Organizations] in could open the doors to European farmers and all kinds of lobbyists opposed to free trade.”[10] Critics of the WTO would agree with this description. Lori Waluch, for example, the person who coordinates opposition to trade liberalization for Ralph Nader, argues that the problem with international agreements is precisely that they undermine opportunities for domestic democratic control.

Yet the international trade policy network is no more stable than the domestic networks we have encountered so far. For reasons that we shall discuss, the WTO has been less able to maintain a small and ideologically coherent policy network of the type favored by the anonymous official quoted above. The WTO itself has opened a dialogue with public interest groups, paying for them to visit the WTO in Geneva. In the Shrimp/Turtle dispute, the Appeals panel that issued the final ruling explicitly recognized the right on NGOs to file briefs on a case, a right previously denied them. In a speech to the WTO in April 1999, President Clinton stated that it was the policy of the United States to increase the openness of policy making by the WTO. The increased pressures on the WTO and the widened area of debate predictably reduced consensus and comity within the organization. Throughout 1999, the WTO was riven by a dispute over the selection of its next President. A bitter
contest between a New Zealander and a Thai candidate resulted in deadlock while the African chair of the search committee was said to have been exhausted by the process. Ultimately, both candidates were appointed for half terms each scarcely providing either with a strong mandate.

Tuna and Dolphins, Shrimp and Turtles; The Networks Collide

The tuna/dolphin and shrimp/turtle cases brought the potential conflict between trade law and environmental policy home to the United States. As we have seen, the United States has generally believed that it has the most to gain from international trade agreements on the grounds that it is already open to exports from foreigners while its own exporters face discriminatory and protectionist policies inhibiting their access to foreign markets. It came as a surprise to the United States, therefore, that it should be subject of complaints, one (tuna/dolphin) in the last years of GATT and the other (shrimp/turtle) in the early days of the WTO. In both cases, the complaint was in essence that American laws adopted in the name of environmental defense were a barrier to trade. The problem with dolphins arose because of their practice of swimming under concentrations of tuna fish. Catching tuna by the most economical method of netting snared dolphins as well as tuna, generally resulting in their deaths. The Marine Mammal Protection Act required tuna fishers to adopt “dolphin safe” methods of fishing and prohibited imports from countries that did not also adopt these measures. The problem with turtles also arose from the unintentional capture of these endangered creatures by fishermen gathering their catch (in this case shrimp) in the most economical manner. The Endangered Species Act required American shrimp fishermen to use TEDs (Turtle Exclusion Devices) on their nets and prohibited imports of shrimp from countries that did not also require them. From the point of view of countries exporting tuna or shrimp to the United States, these laws imposed unwarranted burdens on their fishermen allegedly in pursuit of American environmental ideals that these countries did no necessarily share but certainly with the effect of excluding foreign producers from the American market. TEDs, which cost between $80 and $400, might be an affordable expense for American fishermen. They were not an affordable expense for a poor fisherman in Asia where most of the imported shrimp came. It was damaging to the defense of American policy that the United States had not made determined efforts to secure an international policy to protect dolphin and turtles; moreover, its policies targeted entire countries, not individual producers so that any fisherman who did adopt dolphin safe practices or
TEDs would still be excluded from the American market if his country did not have American style policies in place.

How did these disputes play out? Both cases were decided against the United States by international panels. In the case of tuna/dolphin, although the powers of GATT to compel compliance were weak and the United States could have vetoed the panel’s ruling against it, powerful agencies such as the State Department, the USTR and the Commerce Department had no wish to undermine the credibility of the United States as it argued for trade liberalization by providing an example of the United States refusing to comply with an international trade ruling. In the case of shrimp/turtle, the United States was faced with the choice of either complying or paying the victorious complaining nations (India and Thailand) monetary compensation. The United States could not ignore the WTO ruling without fatally weakening an international body it had worked to create.

The tuna/dolphin dispute followed the debates about NAFTA and the ratification of the Uruguay Round of GATT creating the WTO. It was not surprising, therefore, that critics of globalization should seize on the story as a powerful illustration of the dangers of globalization for progressive domestic policies and national sovereignty. Representative Faleomavaega (American Samoa) argued that “The real reason for H.R. 408 [to bring the US into compliance by amending the Marine Mammal Protection Act] is to help the US avoid embarrassing WTO (World Trade Organization) sanctions or fines. Those of us who opposed NAFTA and expansion GATT said that it would be no time at all before the US started changing its laws to comply with lower international standards.”[12] Mr Abercrombie (Hawaii) similarly argued that “this bill is about the US State Department arbitrarily dictating changes in US law without consulting Congress until after the deed is done.”[13] The great advantage these critics enjoyed was that copying with the GATT ruling on tuna/dolphin required an act of Congress, an act that would have to survive the “obstacle course on Capitol Hill” against the backdrop of a campaign that labeled the fight “GATTZILLA versus Flipper.” Proponents of bringing the United States into compliance with the GATT ruling were betraying both Flipper the dolphin and national sovereignty. In the event, the legislation passed the House 262 to 166, but faced the additional problem in the Senate of a filibuster. The opposition was led by Senator Boxer, again repeating the theme that both the environment and national sovereignty were at risk.

“I want to make one further statement, Mr President, because there is a disturbing element in all of this to
me, and it doesn’t just come into being with respect to this issue, it is an overall issue. And that is, I have a very straightforward belief that American laws should be made by Americans that in fact our environmental laws, all of our laws, ought to be made by the people who are sent here to fight out these issues. American laws should not be made by other countries. I was disturbed in the course of this debate that, in fact, there was tremendous influence from other countries.”[14]

In spite of the opposition to amending the US legislation and the willingness of 45 Senators to filibuster, in the end US law was amended. How was this achieved? The answer is that the amending legislation adopted was actually the result of a compromise between some US environmental groups (the National Wildlife Federation, the World Wildlife Fund, the Center for Marine Conservation, the Environmental Defense Fund and Greenpeace) and the governments such as Mexico and Peru that had brought the complaint against the United States. The deal provided gains for both sides, essentially promising higher dolphin protection standards by Latin American fishermen for all their catch, not just catch exported to the United States, in return for access to the American market. In political terms, the approval of five well known environmental groups allowed US legislators to avoid the charge that they had voted for Gatzilla against Flipper. Proponents of trade liberalization could argue that in the face of considerable political difficulties, the United States had maintained its commitments.

The shrimp/turtle dispute seemed to be an even more serious defeat for environmentalists. Thailand, Malaysia, India and Pakistan brought a case against the United States in the WTO alleging that American law prohibiting imports of shrimp from countries that do not require the use of TEDs was a breach of international trade law. Thailand actually does require the use of TEDs but brought the case as a matter of principle. This principle is that one country should not be able to impose its environmental policies on other countries through trade embargoes; the critics of American practice in this regard note that far from being perfect itself, the United States is the major source of greenhouse gases and similar pollutants. The inhabitants of small islands threatened by global warming do not have the power, however, to impose trade sanctions on the US until its mends its ways.[15] From the environmentalists point of view, the creature that was protected by US law, the sea turtle, is an endangered species and one, moreover, that has a number of endearing characteristics. Shrimp nets without turtle exclusion devices kill 150,000 of these creatures each year.[16] Article XX of the WTO treaty seemed to countenance measures that impede trade if they were adopted to preserve scarce and depleting resources. None the less, the United States lost the case and a subsequent appeal. As the WTO had been celebrated for moving
away from a pattern of decision making under GATT that was ultimately one of conciliation and bargaining and towards one based on the development and interpretation of a body of international trade law[17] – a development eagerly promoted by the United States – the WTO decision seemed to threaten not only sea turtles but a broad swath of environmental law. It was accordingly denounced by environmental groups. The National Wildlife Federation complained that ‘The decision is that free trade interests override environmental protection efforts in all cases.”[18] The Sierra Club complained that the decision “poses a profound threat to global environmental protection.”[19]

In fact, the ultimate WTO decision (which the United States has yet to fully implement[20]) on the specific case was less disappointing to the environmentalists than they originally suggested and contained a number of long term gains for them procedurally. The WTO process takes a long time to conclude. The opinion of the original panel was circulated supposedly secretly in March 1998 and released in May; the ruling of the Appellate Body was released in October. During this period, the United States brought heavy pressure to bear. In consequence, the final decision from the Appellate Body produced a more acceptable opinion for environmentalists than the initial ruling. The appeals panel did find that the United States’ ban on shrimp imports was “arbitrary” and “discriminatory.” The US had “require(d) other WTO members to adopt a regulatory program that is not merely comparable, but rather essentially the same as that applied to United States shrimp trawl vessels.” The United States had neither adequately examined the circumstances and policies of shrimp exporting countries nor pursued negotiations with them on measures to protect turtles. Had the US done so, the Appellate Body, by focusing on Section XX(g) of the WTO agreement that allows individual nations to take action departing from WTO rules in cases “relating to the conservation of exhaustible natural resources” rather than the general principles set out in the introduction or chapeau of Article XX would have prevailed; unilateral environmental action would have been permitted. In other words, the final WTO ruling left open the possibility that individual nations such as the USA could adopt laws promoting environmental protection that created NTBs if they were drawn as narrowly as possible and had been preceded by attempts to find a multilateral solution.

The second important shift that occurred as the case progressed through the WTO machinery was in terms of the standing of environmental groups. Environmental groups had sought access to the WTO panel hearing the shrimp/turtle case. The plaintiffs objected strenuously. The United States attached briefs from
environmental groups to its own submission but it was not clear that they were read. The Appellate Body, however, fully affirmed the right of non governmental organizations (such as the American environmental groups) to submit evidence and arguments. In the words of one helpful commentator, “non-governmental persons and entities need not wait for invitations from WTO panels or the Appellate body before submitting their views in legal briefs or otherwise...the Appellate Body’s determination opens the door to WTO decision-making based on a far wider range of views than in the past.”[21] The WTO reinforced this doctrinal shift by launching a dialogue with environmental groups, many of which had opened offices in Geneva; the WTO subsidized visits to Geneva by groups that could not afford a permanent presence there. No doubt the WTO felt that it was worth making an effort to detach environmental groups form the coalition that, by preventing the renewal of fast track authority by Congress for the American President has blocked further trade liberalization for the world. As John Audley has shown, environmental groups differ considerably in their acceptance of global trade or hostility towards it.[22] The WTO may well be able to detach a few environmental groups from what has been recently a united front.

Conclusions

What is the importance of these American tales? The first significance of the tales is for the trade policy community. We live in an era in which the international has become domestic and the domestic international. Those who favor (rightly or wrongly) further trade liberalization have to realize that the international process of trade liberalization has to come to terms with American politics. As the international has become domestic, that means dealing not with the old policy communities of trade or economic foreign policy more generally but with policy communities that include a greater diversity of actors, actors who do not define their goals, interests or beliefs in the language of international trade. The addition of these new actors, no matter how weak they are thought to be compared with the global economic forces pressing for liberalization, has been crucial in the pluralistic American polity to tilt the political balance against further trade liberalization.

The second and more general point for political science has been the dynamic of change when two policy communities are suddenly joined together. Both tuna/dolphin and shrimp/turtle abruptly joined actors from the
trade and environmental policy networks into a new international trade/environmental network. Trade policy
people used only to the deliberately insulated worlds of fast track, the USTR and key figures in Congress were
already being drawn into a wider and more adversarial network as disputes over NAFTA and ratifying the
Uruguay Round of GATT indicated. In contrast, the environmental policy community had been moving in the
direction of greater trust and compromise. Contrary to the fears of the environmentalists, merging the two policy
networks did not simply place environmental issue son the hands of the trade policy community. Pre-existing
trends towards a more adversarial and pluralistic politics in the trade policy area were accelerated. In
tuna/dolphin, environmental groups pushed their way into the world of the trade policy network and demanded
their say in Washington. Indeed, the only way in which the trade policy community could maintain its norms was
through a bargain between environmental groups and the Latin American countries whose fishermen had been
denied access to the US market. An international policy community, GATT, was required to admit US domestic
interest groups to its policy community, domestic interest groups that were not defined in terms of goals, values
or language as trade groups. Similarly, the shrimp/turtle dispute had the even more striking effect of making US
domestic interest groups players in the WTO policy network, even though the WTO arguably had been designed
to exclude domestic interest group pressures and to prioritize a goal they did not necessarily share, namely trade
liberalization. Similarly, environmental groups have had to deal with the fact that the old networks that handled
issues such as dolphin or turtle protection now include powerful adversaries such as foreign governments and
international trade organizations.

We might have expected that merging the trade and environmental policy networks would have had two
consequences. The first would have been the defeat of environmentalists. The trade policy network was
organized around principles and institutions that were not hospitable to environmental concerns. The WTO
prioritized trade liberalization and restricted access to its decision making procedures. Participation in
international policy making requires extensive travel and offices in expensive countries such as Geneva;
environmental groups are generally short of money. We might also have expected that merging policy networks
would make compromise harder to achieve. Actors confront each for the first time defining issues differently,
talking a different language and without any prior history of cooperation that has created goodwill on which they
can draw in seeking agreement. Actors in the newly merged networks have not played the policy making game
together before and so lack the benefits of iteration in games.
Yet these pessimistic expectations have not been fulfilled. Environmental concerns and groups were able to make a real impact, achieving a compromise that five major environmental groups believed to be highly advantageous because it expanded dolphin protection to the Latin American countries. Even in the shrimp/turtle case that seemed a defeat, environmental groups were able to achieve significant gains in terms of achieving recognition of their right to be involved in WTO procedures. Why were the pessimistic predictions wrong? The short answer is that the pluralist American political system compelled an emerging international policy network to take on its own pluralist characteristics. The power of environmentalists in Congress, defending popular creatures such as Flipper[23] and likeable turtles against global “trade bureaucrats” compelled recognition of their concerns and compromise. This is not because environmental groups alone are all powerful in the USA but because in alliance with groups such as labor and empowered by features of the US political system they can block further trade liberalization.

The crucial question about any case study is of course how far any conclusions derived from it can be generalized. The Constitution has always give Congress, and therefore interested groups that have influence with it, a special role in trade policy. Though Congress has ceded its power to the Executive for most of the period since the 1930s, power delegated is always potentially power that can be reclaimed. Indeed, an alliance largely composed of labor and public interest groups has succeeded in denying President Clinton “fast track” authority leaving him without a tool regarded as essential for American leadership in further trade liberalization. Trade gives Congress and interest groups with influence in Congress continuing opportunities for influence. It is perfectly possible, therefore that the implications of these environmental/trade tales cannot be generalized. However, there at least some indications that the conclusions drawn from these tales can indeed be generalized. David Vogel has shown how there has been a “trading up” in standards rather than a race to the bottom because of the power of public interest groups in regulatory politics[24]; the ability of the environmentalists to secure a treaty at Kyoto on global warming (even though they cannot get it through the US Senate) is a further example of the surprising success of public interest groups in international settings. Perhaps, in the end and after several iterations of the policy making game at the international level, the trend towards compromise resting on the inability of either side to triumph that we noted in American domestic environmental policy making will emerge in the international networks, too.
I use the phrase “policy network” simply to refer to people who interact on a policy question. I use the phrase “policy community” to refer to people who interact regularly on a given issue and who share implicit or explicit assumptions about desirable policies relating to the issues.


[5] By “policy network” I mean no more than a group of people or interest groups who interact regularly on policy questions. By policy community, I mean a group of people or interest groups that not only interact regularly on a policy issue but who are also united by certain common implicit or explicit assumptions about the components of good policy on that issue.


I. M. Destler *American Trade Politics* 3rd ed., (Washington DC: Institute for International Economics, 1998). It is important to note that Destler in this edition is more optimistic than in earlier editions about the political prospects of trade liberalization deleting the subtitle “System Under Pressure that had been used in previous editions.


[12] *Congressional Record* House of Representatives 21 May 1997 p H3131


[20] The State Department drafted changes to American regulations to comply with the WTO ruling. In April 1999, however, these changes were blocked by the US Court of International Trade in response to a suit by environmental groups arguing that they provided insufficient protection to turtles. See *Greenwire* (an internet service of the *National Journal*) April 15 1999.


[23] Dolphins may not be cute, loveable creatures. Recent research has found that they bludgeon other creatures and even their young to death, a characteristic they share with some humans. See William J Broad, “Evidence Puts Dolphins n New light As Killers” *The New York Times* 6 July 1999 p D1.