A Moderate Compromise: Economic Policy Choice in an Era of Globalization
(Excerpt) - by Steve Suranovic (Palgrave McMillan, 2010)

Chapter 4 - Why Fairness Can't Tell us What to Do about Policy

If we can't identify who wins and loses, and we can't measure outcomes very precisely, and we can't compensate effectively, then how are we supposed to decide what to do? How are trade policies, or other public policies, to be chosen? One possible answer is provided by groups that have risen up in opposition to free trade and globalization. Many of them look upon economic theories and models with suspicion. They do not believe that economic efficiency is of utmost importance and remain unconvinced by empirical studies suggesting trade liberalization is a good thing. Instead, these groups unite around a call for social justice and fairness.

Fairness has become a rallying cry for a diverse and somewhat eclectic set of people. Although many of these groups accept there are some advantages to open markets and freer trade, they also contend that in many cases (perhaps most) free trade allows stronger and more powerful groups (such as multinational corporations) to take advantage of weaker, disadvantaged groups (like poor unskilled workers). In other words, they'll often proclaim that free trade is unfair or unjust.

Justice is an effective rallying cry because everyone is surely in favor of social justice and fairness. Indeed, it is common for politicians to proclaim that they are in favor of free trade as long as it's fair. Indeed, Dani Rodrik (1997; p6) argues, "… one cannot produce a principled defense of free trade without confronting the question of the fairness and legitimacy of the practices that generate the consequences."

That fairness has many supporters is not surprising. A big problem though is, what exactly does fairness mean? The concept of fairness is a fuzzy one. Inquire from people what they understand fairness to be and you are likely to receive dozens of different responses.[i] This suggests that fairness does not have one definition; that instead it can mean different things to different people in different contexts. It may also mean different things to the same person at different points in time.

On the other hand, although fairness may be difficult to describe accurately and completely, the notion that something is unfair can sometimes rise up within a person with sudden conviction; simply remember an obviously bad call made against your favorite sports team, or the time someone cut in front of you in traffic.

In a previous article, Suranovic (2000) described the different ways in which fairness is used in trade policy and other public policy discussions. That paper presented seven distinct fairness principles. In this section I'll reexamine those principles and apply them to a specific trade issue; antidumping. The chapter argues that each of these seven fairness principles are likely to be viewed as individually reasonable by most people. Nonetheless, the principles consistently conflict with each other when applied to particular situations. The chapter concludes that because of that conflict, any policy option can be viewed as fair with respect to some principles and unfair with respect to others. Consequently, fairness, broadly defined and applied, is inconsistent and therefore an inadequate policy choice mechanism.

General Principles of Fairness

People generally consider outcomes and processes to be fair if they conform to a common, or shared, set of standards. Parents instill these standards upon their children,

which may vary across cultures, countries and even families. As such, they form a set of individual expectations. Individuals consider outcomes or processes that conform to their expectations as fair, whereas those that don't, are often described as unfair.

For example, a modern western standard is the belief that all people are equal. This belief generates an expectation that two individuals should be treated the same way in certain situations. In the US today, most people believe that all individuals should be allowed to use a public bus or drink from a public water fountain. However just over fifty years ago it was legal to segregate blacks and whites on busses and to designate water fountains as "For Whites Only."   Over time a general belief in equality has grown stronger. However, similar beliefs are not shared by all peoples and all cultures around the world. For example, in India the caste system has a long history of segregating individuals into particular professions on the basis of one's hereditary class or caste. Although Indian law has outlawed discrimination on the basis of caste, the system continues to hold sway over a vast population in the Hindu culture.

Many terms besides fairness are used to describe issues of right and wrong; terms like justice, equity, and morality.   Although there are surely distinctions between these, delineating these differences is not absolutely necessary. Instead I'll focus on popular conceptions of fairness, especially from the Western perspective, which has tended to focus on the standard of equality. From the French revolutionary slogan, "Liberty, Equality, Fraternity," to the US declaration that "All men are created equal," to the US Supreme Court's promise of "Equal Justice under the Law," to modern calls for equal treatment and equal opportunity, a standard of equality is regularly aspired to, though not always achieved.

Below, I will highlight seven ways in which fairness is applied in public policy discussions. Each principle, although often acceptable to diverse groups, may nevertheless be measured and applied differently. Thus, to evaluate a fairness argument, one should first identify which principle is being used and second how that principle is being measured and applied.

Each fairness concept has a long and voluminous literature associated with it in the philosophy, legal and social science disciplines. The key innovation is to present these concepts connected to one public policy issue, trade liberalization, and to suggest that these notions help form the basis for both support and opposition to globalization. If we wish to engage all sides in the public policy debate, then we need to understand the rationales for the positions that people take. As in Suranovic (2000), my intention here is not to argue that these fairness concepts *should* be used and applied, but rather that these conceptions *are* being used and applied. The readers are welcome to form their own judgments as to which is more or less important to oneself.

Seven Conceptions of Fairness

In many societies there is a strong belief in the equality of people. The standard of equality as applied to public policy discussions generally takes one of two forms: either applied to expectations about *outcomes* or expectations about *treatment or behavior.* In the former case, observers desire outcomes, such as wages or income, to be more equally distributed and is therefore labeled *distributional fairness*. The latter case involves concerns about equal treatment in certain situations and is labeled *nondiscrimination fairness*.

Distributional Fairness

One of the major stated concerns about globalization is that the rich are getting richer and the poor poorer, resulting in an increase in inequality both within countries and around the world. Whether that statement is true or not, it is clear that concern about inequality is prominent in public policy discussions. While the issue occupies a voluminous literature, we need to emphasize only a few key points.

First, the concern about inequality is based on a presumption that all people are equal in some sense. In *what* sense, is a question that is difficult to answer. Nevertheless, because many people have the sense of the rightfulness of equality, they also tend to believe that important life outcomes should be equal, or at the least, *more* equal. Which life outcomes are important, brings us to the second issue: what is the equalisadum, that is, the outcome to be equalized?

The answers are many, often determined as much by what is possible to measure, as by what is most appropriate. Thus although it is well accepted that income is not the only source of well being, it is certainly an important source, and it is widely measured and reported. Individual wealth may be a better measure but is somewhat more difficult to measure and is reported less widely. Amartya Sen developed the notion that what is most important to equalize is "capabilities" or "functionings," which is somewhat akin to the idea of equal opportunity.[ii] However, this concept is clearly much more difficult to measure effectively and convincingly.

In the economics literature a prominent thread of discussion in normative welfare discussions is the tradeoff between efficiency and equity, where equity refers to the widespread preference or concern for equality in economic outcomes. Notably, a free

market economic system, which may generate the most efficient economic outcome and the best use of scarce resources, may not generate a relatively equal distribution of income or wealth. How a society might deal with that issue has been very important over the past few centuries.

Surely one reason for the advent of socialist and communist ideologies was to offer solutions to the problems of a free market capitalist society, one of which concerned the expected inequality that would result. Today, in the aftermath of the breakup of the Soviet Union and the transition of China to a market economy, the socialist and communist systems have been largely discredited. Nonetheless, there remains in most societies around the world a continued concern about the issue of inequality. Although many would no longer demand that income, or wealth or some other measure, be equalized completely, there remains a strong desire for economic outcomes to become *more equal* than they currently are. As such, **policies are often judged to be fair or unfair on the basis of whether the policies will cause more or less inequality, of income, wealth, opportunities, capabilities, or whatever else**.

Non-discrimination Fairness

The second way equality is applied is with respect to equal treatment, that is, nondiscrimination between people in particular situations. For example, the decision of hiring an employee is often expected to be conducted without regard to race, religion, gender or age, because these characteristics are usually considered not germane. Nonetheless, it is acceptable for individuals to be discriminated on the basis of ability. The worker with more experience may rightfully be hired over a person with less experience because past experience contributes to the person's ability to do the job.

Thus, **non-discrimination is considered fair whenever different characteristics, judged irrelevant to the decision, do not influence the decision.**

Nondiscrimination fairness is precisely the basis for John Rawls' (1971) first principle of justice that says, "Each person has an equal right to a fully adequate scheme of equal basic liberties which is compatible with a similar scheme of liberties for all." It is also sometimes referred to as the principle of impartiality.[iii]

In an international trade context, nondiscrimination is the basis for principle of the WTO agreement. WTO countries have agreed to provide most favored nation (MFN) treatment and national treatment to all other WTO countries. MFN means that the best trade policy a country offers, such as a maximum or bound tariff rate, will be offered equally to all other WTO countries. The WTO agreement generally restricts a country from charging a higher tariff against one member relative to another. A commitment to national treatment requires that a country treat foreign goods, after clearing customs, equally to domestically produced goods.

Because judgments must be made as to when two groups should be treated equally and when not, this fairness principle, while widely accepted in principle, is also highly contested. Just as with distributional fairness, where people can dispute what is to be equalized, so too can people argue over when discrimination is acceptable and when not. In the WTO agreement, although MFN is generally applied for all trade issues, there are also a number of allowable exceptions to the rule. For example, MFN can be withdrawn because of free trade areas or when trade remedy actions are taken, such as antidumping. In a domestic setting, although it would generally not be considered fair to charge a higher price for gasoline to whites rather than blacks, nevertheless it is generally

acceptable for theaters to charge a different price to senior citizens for a movie ticket. This means that although policy observers may accept that nondiscrimination is an important principle, there continue to be divergent views about how or when it should be applied.

Golden-Rule Fairness

The golden rule is often prescribed as a method to determine acceptable actions. In the biblical context it is often expressed as, "Do unto others as you would have them do unto you." If one accepts this rule of thumb, it is easy to understand why doing harm to others (e.g. stealing), and most other social admonishments are considered wrong or immoral.[iv] If you do not want another person to injure you, then do not take the same actions that would injure him.

Although the golden rule is typically considered a moral or religious code, it is found in the philosophical literature as Immanuel Kant's categorical imperative and due to its widespread acceptability applies in public policy discussions as well.[v] A noteworthy application arises in the common expectation that people will abide by the "rules of the game." In a simple context, as when people play a board game or card game, cheating to gain an advantage for oneself both violates the golden rule and consequently, is quickly objected to as being unfair.

Across social settings different rules typically apply: national laws differ from state laws, which differ from the codes of conduct expected in a business environment. Sometimes the rules are explicit; the income tax laws are written down and published for all to see. Other times the rules are implicit, as with expectations about behavior in church. Regardless of the social setting and despite the fact that the "rules of the game"

are sometimes hard to pin down, **violations of explicit or implicit rules are generally considered unjust or unfair.**

In international trade a notable rule is the WTO agreement itself, which consists of a series of promises or commitments that countries have made to each other. The promises by each member country induce a set of expectations for the other members. For the 153 WTO member countries, unfair trade is often proclaimed when another member has failed to live up to one of its previous promises; or when expectations are unfulfilled. Similarly, any time a country is judged to be violating any rule, law or promise, whether explicit or implicit, the charge of unfairness is often applied.

In some instances, following rules or laws is often regarded as sacrosanct. For example, when other countries charge the US with being protectionist because it applied higher tariffs against other countries in antidumping actions, the US response is always that it lies within the rules of the game since antidumping actions are allowed by the WTO agreement. On this basis, these protectionist actions are perfectly fair. Note that when determining fairness in this situation, the observer generally does not inquire whether the antidumping procedure itself is "fair" in some other sense, only whether the procedure is allowable by law.

Reciprocity Fairness

Another important principle of fairness is based on the idea of reciprocity, a kind of quid pro quo. There are three different variations of reciprocity, depending on the value of the quid and the quo. Thus, when someone does something that has a positive effect on another person, that person is sometimes expected to reciprocate in kind with an equally positive response. This type of interaction will be called positive reciprocity

fairness. In contrast, if someone does something that has a negative effect upon someone else, it is often deemed acceptable for the second person to also reciprocate in kind with a equally negative response. These types of interactions will be called negative reciprocity fairness. Finally, if someone does something that has no effect upon another, it is generally expected that the other person will not respond with a negative effect upon the first. This type of *non*-interaction will be called privacy fairness. Privacy fairness represents an expectation for autonomy or noninterference - to be left alone.

The "in kind" reciprocal action is also expected to be approximately equal in value to the value of the original action. Since the quid and the quo should be almost equal in perceived value, reciprocity fairness also represents an application of a concern for equality, but applied not to outcomes or opportunities but to bilateral transactions. Even with privacy fairness the expectation is that a zero-effect action will be reciprocated with an equal zero-effect response.

Adam Smith described positive and negative reciprocity in the "Theory of Moral Sentiments" when he wrote: "To reward, is to recompense, to remunerate, to return good for good received. To punish, too, is to recompense, to remunerate, though in a different manner; it is to return evil for evil that has been done."[vi]

Positive Reciprocity Fairness

Positive reciprocity fairness is a common feature of exchange between people. Whenever an economic transaction is made between two individuals, or two businesses, or an individual and a business, the two parties to the exchange believe that the value of what's given up is approximately equal to the value of what is received. If not, it is unlikely that both would agree to exchange voluntarily. Indeed, for trade to be viable,

what both parties should believe is that the value of the item received is *more* valuable to themselves than the value of the item given up. This is the reason economic exchange is a positive sum game and both parties gain from the transaction.

Positive reciprocity is relevant in many other situations as well. International trade agreements, like the GATT and the subsequent WTO, involve negotiations between countries in which each side offers trade-liberalizing concessions in exchange for approximately equal concessions by its trading partners. When both sides believe the quid pro quo is substantial enough and approximately equal, trade rounds come to a conclusion. The Doha round of trade liberalization talks have followed a very slow progression largely because the developing countries felt the US and EU were not making sufficiently large concessions in the area agricultural liberalization. At the same time the US and EU felt the developing countries were not reciprocating enough by offering to reduce the bound values of their import tariffs. Since no party to a possible agreement felt the exchanges were sufficiently balanced, the current offers are viewed as unfair by both sides.

Another embodiment of positive reciprocity fairness is in the definition of the fair price in antidumping actions. AD actions, sanctioned in the WTO agreement, allow a country to raise trade barriers on imported products that are shown to be sold at less than fair value. One definition of fair value is a price that is approximately equal to the cost of producing the good after allowing for a reasonable profit. In this case, fairness is related to approximate equality of reciprocal values, namely the cost and sales price.

Negative Reciprocity Fairness

Negative reciprocity fairness arises in cases of revenge, retribution, or a redress of grievances. Revenge is one of the motivations behind punishment for those found guilty of crimes. Since criminals have killed, injured, robbed or inflicted other damages upon others, it seems reasonable to require the criminal to suffer similar negative effects. For this reason, the perpetrators of serious crimes are either fined or incarcerated. The more serious the crime, the larger is the penalty; demonstrating that the reciprocal effects are approximately equal in value.

In international trade, an application of negative reciprocity fairness is the allowance for suspension of concessions as a part of the WTO dispute settlement process. If a country is found to have violated one of its commitments under the WTO agreement, and if it refuses to come into compliance, the dispute settlement board (DSB) can allow the aggrieved country to suspend its previous concessions. A suspension means taking away some of the trade liberalizing benefits that were previously granted. In this way some pain is caused to the violating country and in keeping with the spirit of equality, the value of the suspended concessions, in terms of how much trade is affected, is meant to be approximately equal in value to the original harm caused by the violating country.

Privacy Fairness

Privacy fairness relates to situations in which the reciprocal effects are null or zero. It is often applied in situations in which a person may do something that has an effect upon oneself but not upon anyone else. Cohen (1986) defined a self-ownership postulate claiming that that a person has a moral right to use one's powers to benefit oneself as long as no harm is caused to others. Other people, viewing these actions from afar

though, will sometimes form opinions about what should or should not be done; what is right or wrong, even if those actions do not directly affect them. For example, a person may believe that smoking is wrong and object to another person smoking even when that person's smoking is done in their own home with no external effect upon anyone else. Privacy unfairness may be charged especially if the person who objects seeks to restrict the private actions of another person.

One could argue that privacy fairness is just the null application of the golden rule. In other words, if you would not like others to interfere in your affairs or decisions then you should not interfere in the lives of others. To do so is unfair.

The most notable application of privacy fairness in international trade discussions is the issue of national sovereignty. Quite often some countries pressure other countries to change their trade or domestic policies. Sometimes this is done because the changes would have some positive effect on businesses in the advice-giving country. At other times it is suggested because it is perceived to be in the best self-interests of the other country. Even if the advice is appropriate, the country asked to change policies is often offended that the first country would presume to offer unsolicited advice. Privacy fairness issues arise whenever one person or country insists that another person or country mind their own business.

Maximum-Benefit Fairness

Maximum benefit fairness arises out of a concern that decisions should be made that are "best" or "most appropriate" in some sense. While it is true that in many contexts this concern does not coincide with the use of the term fairness, occasionally it does. One simple example, is the decision to hire a worker for employment. If a firm

considers several candidates, the usual standard is for the firm to hire the best-qualified worker; the worker that would best achieve the objectives the company needs from a worker in that position. If a candidate were hired that was clearly less qualified than another, many would judge the outcome as unfair. The expectation is that hiring decisions will be made on the basis of skill and abilities and not on other irrelevant criteria, such as whether the candidate is male or female.

In another context one might consider what is a fair method to allocate scarce donor organs to those in need of a transplant? The method that has been developed by the medical establishment considers the extent of the benefit accruing to recipients along several important dimensions. Thus, a younger person takes precedence over an older person. Similarly, a person who is weaker and may die sooner ranks higher than a person who could wait several months. In this situation, outcomes are judged to be more fair if the person who stands to benefit the most is the one who receives the transplant, hence it is an application of maximum benefit fairness.

In an international economic context maximum benefit fairness is a prime concern among economists since economic analysis typically focuses on the efficiency effects of various economic arrangements or policy options. Free trade is often promoted, largely, because it is expected to raise overall economic efficiency implying a greater overall benefit for the country. While surely some would contend efficiency is separate and distinct from fairness considerations, it remains true that efficiency (i.e., maximum overall benefit) is a valid concern for policymakers.

Thus, by including maximum benefit fairness as a distinct fairness conception we also can expand the set of criteria that are typically used to make judgments about policy

options. Indeed, we might even claim that the set of concerns embodied in the seven fairness principles cover most, if not all, of the standard principles used to assess the appropriateness of different policy options or economic arrangements. Including maximum benefit fairness, then, allows us to consider the long-standing equity-efficiency debate within the parameters of what are defined as fairness principles.

The Application of Fairness to the Globalization Debate

The presentation of these seven principles of fairness is intended to show the distinct ways in which people make policy evaluations, not to argue for or against any particular principle or to suggest what weight should be given to each principle. Prima facie, it seems that each principle is commonly accepted and applied by most individuals in at least some situations. However, the fact that there are seven different principles means that individuals can, and do, pick and choose which principle to apply in every situation, often in a way that tends to serve their own interest. Also, as we'll see with a few examples, the principles themselves can contradict each other when applied to a particular situation. The presence of these contradictions means the principles do not provide a basis for defining an unambiguous conception of fairness.

Another problem with the application of the fairness principles involves the scope of the application. For most policy choices, the policy effects are likely to be widespread and diverse. For example, the removal of a tariff will affect consumers of the imported product, firms in the import competing industries, workers in those industries, as well as foreign consumers, firms and workers. Fairness principles can be applied in light of the effects on domestic workers only, or the overall domestic effects, or on foreign firms

only, or the effects worldwide. By changing the scope of the fairness application one can usually change the evaluation of a policy from fair to unfair or vice versa.

Finally, application of fairness principles often requires measurement of key variables and these measures are frequently disputed. For example, some critics of freer international trade argue that globalization is leading to environmental degradation as polluting firms move facilities to countries that have more lenient environmental standards. Proponents of freer trade have countered by showing that the environmental costs savings are dominated by other cost concerns when firms make relocation decisions. In this case, while both sides may accept the same fairness principle, they may come to different conclusions because they measure and interpret the data differently.

These issues imply that for any policy under consideration it is usually possible to build one fairness argument that supports the policy and to build a differently configured fairness argument that opposes the policy. One need only to vary which principle is applied, the scope of the application, and the data used to measure the variables of interest. Below we consider the different ways a fairness argument can be built to support, in the one case, or oppose, in the second case, the WTO-sanctioned antidumping procedures, one of our 'so-called' unfair trade laws. This policy serves as a useful example since most of the fairness principles arise in this case.

Fairness and Antidumping Procedures

Antidumping is a legal procedure that allows a country to raise tariffs on specific items if several criteria are satisfied. The procedures are allowed to all countries that are members of the WTO. Thus, most, if not all, WTO countries have antidumping

legislation. When the criteria are satisfied, a country is allowed to raise a tariff against a particular foreign firm above the bound tariff rate negotiated in the WTO agreement.

In general, the AD procedures work as follows. First, a firm or industry must request its government to conduct an antidumping investigation. The government will seek to determine several things. First, they must assess whether the product is being sold in the country at a price that is less than reasonable value. One definition of "less than reasonable" is if the price in the import country market is less than the foreign firm's cost of producing the good. A second allowable definition is a price in the import country market that is less than the price charged in the foreign firm's home market. In economics, while pricing less than cost is known as dumping, pricing differently in different markets is commonly known as price discrimination. In either case, both have come to be known as dumping because of the legislation. The degree of *under*-pricing, in percentage terms, is referred to as the *dumping margin*.

If the investigation discovers dumping, the government must subsequently determine if the dumping caused injury to the domestic import-competing firms. Injury may involve falling revenues, recent accounting losses, worker layoffs, and other indications of harm caused to the domestic firms. If the injury can be attributed to the dumping then a green light is given to assess an antidumping duty. The duty is a tariff on imports of the product set at a level equal to the dumping margin. It is worth noting that governments often identify different dumping margins for different firms. This means that when the antidumping duty is assessed, it is set at a different rate for every investigated foreign firm.

Dumping is Unfair; Antidumping is Fair

Antidumping is known as an unfair trade law purportedly because it protects a country against unfair pricing practices by foreign firms. When foreign firms undercut domestic producers, especially by selling below the cost of production, it makes it more difficult for the domestic firms to effectively compete. To stay in the market, import competing firms may be forced to lower their own prices, perhaps to a level below their production costs. The losses incurred by these firms would cause harm to the firm owners and employees by reducing profits and lowering wages. If losses persist for very long, the domestic firms may be forced to lay off workers causing the further damage of unemployment.

Additionally, the foreign firm is sometimes accused of predatory behavior. Predation occurs if, after a period of low pricing, the domestic firms are forced into bankruptcy, thereafter enabling the foreign firms to raise prices to near monopoly levels and recover their previous losses. Foreign firms may be able to withstand economic losses for longer than domestic firms if either the foreign firms have a near monopoly in their home market or if the foreign government subsidizes exports in some direct or indirect way. In the case of a foreign monopoly market, extra-normal profit at home can allow for a kind of cross subsidization within a firm. Given high profit in the home market, the firm could sell its exports below cost for a long enough period of time to drive its foreign competitors, who don't enjoy the same monopoly position, out of business. Foreign government subsidization works in a similar manner. Government subsidies either increase revenue over that achieved from sales of its product or reduce

the cost of production. This can enable a firm to sell its product indefinitely at a price below cost in the foreign market and help force its competitors out of business.[vii]

Several distinct fairness principles can be applied to argue that antidumping actions protect against unfair trade. Applying golden rule fairness one can argue that firms in different countries should play by the same set of rules, that there should be a level-playing field. Monopoly profit in a home market or foreign government subsidies, are usually viewed as a one-sided advantage for the foreign firms that enables them to more easily compete, take over market share and potentially force competitors out of business. If foreign firms did not have those "unfair" advantages, then all firms would face the same circumstances, i.e., the same rules. For many this argument is sufficiently convincing. However one can build an even stronger case.

Another common argument supporting antidumping procedures is that the procedures are themselves encoded in law and agreed to by the WTO countries. As such foreign firms are violating the rules when they engage in predatory or discriminatory pricing. Actions taken against these firms are allowable and thus are fully consistent with golden rule fairness.

The antidumping procedures themselves incorporate other fairness conceptions such as reciprocity. Recall that when AD duties are applied they are set equal to the assessed dumping margin. As such, the AD duties raise the domestic price of the foreign product to the level deemed "reasonable." The unfairly low price is equally reciprocated with the AD duty. Of course, some argue that the response in insufficient because it does not return the losses incurred by the domestic import-competing firms during the time the unreasonably low prices were being charged and before the AD duty could be assessed.

On this basis, which involves measuring the reciprocal effects differently, one could claim that the AD duties should be set even higher.

Finally, antidumping measures are allowed for all WTO member countries. All WTO countries have agreed to the basic set of principles and procedures described above and each country can apply antidumping actions against any others within the dictates of the agreement. Thus, the nondiscrimination fairness principle applies to this situation.

Dumping is Fair; Antidumping is Unfair

An alternative perspective on these same actions is possible by broadening the scope of the analysis. The charge that unreasonable pricing is unfair is based on the narrow perspective of the domestic import-competing firms. Thus, it is not accurate to say that dumping is unfair overall, or unfair to the importing country, only that it is unfair from the perspective of the import competing firms. However, the effects of dumping and antidumping have many other impacts on individuals in both the exporting and importing countries. If we include these wider effects, it is possible to reverse the perception of what is fair.

The effects ignored in the above fairness analysis are the impacts on the consumers of the affected products in the importing country. When foreign firms sell their products below cost, consumer are enabled to purchase the products at a lower price. An antidumping duty however, will raise the price back up and eliminate these benefits.

According to privacy fairness one could ask what right the government has to restrict the mutually voluntary exchanges between the foreign firms and the domestic consumers. The antidumping duty interferes with the private actions of the domestic

consumer and the foreign firm. Thus, from the narrow perspective of domestic consumers one can argue that dumping is fair while antidumping is unfair.

If we evaluate the national effects from "unreasonably low" foreign prices, it is conceivable that overall national welfare rises due to dumping. This means that the benefits of dumped products to consumers may outweigh the losses that accrue to the domestic import competing firms. The same result follows when foreign governments subsidize their exporting firms; for importing countries the overall welfare effect of the foreign action is likely to be positive. If we imagine that a government's obligation is to do what is best for the nation overall, then allowing foreign dumping to occur maximizes national benefits, whereas antidumping actions reverse the positive effects and reduce national benefits. Accordingly, applying maximum benefit fairness, dumping is fair and antidumping is unfair.

Alternative arguments against antidumping procedures challenge the assumptions made by those who consider dumping to be unfair. For example, one of the most compelling arguments for why pricing less than cost is unfair is the presumption that the foreign firm intends to set low prices to force its competitors from business. However, evidence that foreign firms have ever been able to do this effectively is very rare. In the US, the first antidumping code, dating to 1916, required a demonstration that the foreign firms intended to prey on the domestic firms. However, this law has almost never been applied, largely because it is very difficult to impossible to demonstrate. The current version of the US antidumping code, which dates to 1922, relaxed the requirements to show predation intentions and the current law now only requires price discrimination with injury. Thus, arguments alleging predation as a reason dumping in unfair is

unsubstantiated empirically and thus weakens the fairness argument in support of antidumping.

A recent charge of unfairness with respect to antidumping procedures recently made its way to the WTO dispute settlement board. Foreign countries charged the US with using unfair procedures in the way in which it calculates dumping margins. The procedures are known as *zeroing*. When calculating the dumping margin the US looks at many different sales of the product made by a firm in the domestic country, sometimes spanning several months. In most instances the prices charged to different buyers at different times will vary. Because of the variation it is also common to find some instances where the price charged was "less than reasonable" and other instances where the price charged was reasonable. The dumping margin is calculated as the average dumping margin across these different sales. However, when the US calculates the average, it eliminates, or zeroes, the margin for all sales that were reasonably priced.

Foreign countries have charged that the zeroing procedure results in a larger than reasonable, or unfair, dumping margin and that the procedures violate the commitments made by the US in the WTO. In addition, if the dumping margin is being set too high, then the application violates the principle of reciprocity. A WTO dispute panel reviewing the case has already ruled against the US and has requested that the US eliminate the practice. At this time, the US is reviewing the situation and has not yet made changes to its antidumping procedures. The lack of action is often construed as a failure to abide by the agreed rules of the game and is considered unfair by most foreign observers.

Conclusion

Evaluation of the fairness of antidumping procedures provides a specific example that demonstrates how fairness principles can be used to construct an argument that a trade policy is simultaneously fair and unfair. Opposing conclusions are possible by picking different fairness principles, by altering the scope of the application of those principles, and by picking data favorable to the case one is making. This inconsistency in applying fairness principles to evaluate policy choices can easily be shown in virtually all public policy discussions. In other words, every policy option under discussion can be reasonably argued to be both fair and unfair.

For example, free trade is considered unfair to domestic workers when foreign firms face less stringent, and hence unequal, health and safety requirements and lower minimum wages (nondiscrimination fairness). Free trade is considered unfair because low wages paid to foreign workers contributes to poverty and inequality. (distributional fairness) Free trade is also considered unfair when firm owners make greater profit by laying off workers in the domestic economy and moving factories abroad. (golden rule fairness). However, free trade is considered fair trade because it reduces economic inefficiencies and contributes to an increase in average living standards (maximum benefit fairness). Free trade is considered fair because it consists of millions of mutually voluntary and reciprocal exchanges (reciprocity fairness). Finally free trade is considered fair because to restrict trade interferes in the exchanges of private parties (privacy fairness).

Politicians are astute to this inconsistency. This is why virtually every politician in the US claims to support free trade as long as it's "fair trade." After all, how can

anyone be against fair trade? At the same time, without providing any details about specific policy choices, the phrase is virtually meaningless since any future policy choice can always be justified on the basis of several fairness principles. Meanwhile, a voter may be fooled into believing that the conception of trade fairness held by the candidate must be the same as his own, especially if the voter doesn't recognize that fairness arguments can be manipulated to serve whatever purpose one desires.

The broader implication is that fairness, as commonly applied, is simply not effective as a policy choice mechanism. Its conceptions are too broad and it appears impossible to identify a set of policies that a near consensus of people would judge to be fair.

The even broader implication is that still another policy choice mechanism has been shown to have serious deficiencies, on top of the deficiencies already described for pure economic theory in Chapter 2 and empirical cost-benefit analysis in Chapter 3. Indeed, if we accept these problems, then objectively we may well conclude that the popular arguments used to support policy choices, either free trade or something else, have little hope of obtaining a near consensus.

Nevertheless, all of these mechanisms for policy choice have popular appeal. Supporters of free trade gather evidence from economic theory, empirical studies and sometimes justice principles to argue the case for trade liberalization. At the same time a diverse group with alternative views build up their own set of arguments by appealing to theory, empirics and fairness and justice considerations. For any objective observer on the sideline trying to make sense of it all, it is difficult to decide which group, if any, is right.

Part of the problem is the underlying assumption that one side must be right, and the other wrong. Either a free trade policy is the best or one of the suggested alternatives must be best. One might think that the objective is to determine who has the story right. But what if nobody has it right? What if there is no way to identify the most efficient or the very best set of policies for a country? What if it is impossible to design policies that everyone agrees are "optimal," or "best," or "fair"?

The last three chapters have argued that uncertainty is the appropriate, albeit unfortunate, conclusion to draw. Current knowledge, while admittedly providing good insights into the workings of the global economy, is simply not able to provide a near consensus answer to the most critical globalization policy questions. The questions that need answering are: 1) what is the best mix of policies to optimize overall national and international welfare; and 2) because a movement to that best mix would undoubtedly result in a complex pattern of gains and losses, can we identify the winners and losers adequately enough to implement an effective compensation scheme? We can't answer these questions effectively using economic theory or empirical analysis and we can't answer them using principles of fairness either. None of these methods can answer the questions with the kind of scientific precision that we show for physical relationships; for example, like showing the earth revolves around the sun or that water boils at 100 degree celsius at sea level. The truth is, we come nowhere close. Social "science" is not like the physical sciences. The changing nature of human responses means there is an insurmountable obstacle in the way. Curiously, although we should be able to see the obstacle; logic should convince us it's there, and still, no one seems willing to acknowledge it. Why is that?

One answer is provided in the next chapter; the answer is politics. Actual policy choices are made via the political process. Most countries today have some variation of democracy, wherein the will of the people is translated into policies. However, this process requires a collection and transmittal of information, that in turn greatly affects the way in which information is disseminated.

The political process also offers one more possible solution to the policy choice dilemma. Since policies are chosen via a political process, perhaps democracy itself is an adequate method to search for and choose the best possible policy options for a country. Democratic choice represents a way to balance the interests of different constituents. The next chapter explores how well the political process works to choose appropriate, or "best," policies.

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[i] See Hayek (1984; Chapter 5) for a useful discussion of the history and use of the term social justice in public policy discussions.

[ii] See Sen (1992)

[iii] See Barry (1995).

[iv] See Burke (1994) for an elaboration of the "Do No Harm" principle applied to free markets.

[v] Kant introduced the categorical imperative in the "Groundwork for the metaphysics of morals," originally published in 1785. See Kant (2005).

[vi] See Smith (1971), Part 2, Section 1.

[vii] Note, foreign government export subsidies are independently considered an unfair trade practice and can be defended against using the WTO-sanctioned anti subsidy

procedures. In this case, price comparisons need not be made. Instead a country need only to show that a foreign government is providing an export subsidy and that the subsidy is causing injury to the domestic import-competing firms. If both conditions are satisfied, a country is allowed to implement a countervailing duty (an import tariff) at the level of the foreign subsidy.