



EXTENDED ENDOGENOUS AND EXOGENOUS PROTECTION IN THE EU–US BANANA DISPUTES

Christina Fattore

West Virginia University

Michael E. Allison

The University of Scranton

Throughout the 1990s, the US and the European Union (EU) were embroiled in a trade conflict over a product which neither produced natively. In short, due to the creation of the European common market by the Single European Act (SEA), the EU countries extended preferential treatment to their former colonies in Africa, the Caribbean and the Pacific (ACP). This facet of the SEA proved to overstep the agreements made previously in the GATT and in the newly formed WTO, which seemed to irk many non-ACP banana-producing states as well as those that had a great interest in this trade, especially US multinationals that operate in the banana-producing countries of Latin America. Several Latin American states and the US government challenged the EU-ACP trade policy in the GATT and the WTO for nearly two decades before an agreement to resolve the dispute was reached in December 2009 (WTO 2009). Among other reasons, this dispute is important because it was one of the longest running trade disputes in recent history, directly or indirectly involved more than half-the world's countries, and was the first case in which economic sanctions were applied by a developing state on a developed state(s) (Barfield 2010).

Prior research in international political economy has tended to explain this lengthy dispute to be the result of a non-reconciliation between the overlapping trade regimes of the WTO and the EU (Alter and Meunier 2006). During the 1990s, while the member states of the EU were forming a common market that would harmonize their trade policies, they miscalculated how this internal harmonization would be interpreted by other members of the newly formed WTO (Borrell 1997). However, legal and political pressures to change the terms of trade between the EU member states and their former colonies also came from the banana-producing states of Latin America, the EU-based companies that marketed those bananas, United States-based multinational corporation Chiquita, and the United States government. For these parties, European preferential treatment of ACP bananas was discriminatory, violated several binding trade agreements, and was bad for business.

The study of endogenous protection focuses on interest groups pressuring governments to adopt policies that will defend domestic products in



a continually liberalizing trade system. However, in light of globalization, we have to consider whether changes in international political economy require us to think beyond endogenous protection in order to understand the formation of trade policy today. For example, what makes a product truly 'domestic'? Many foodstuffs are produced by one country and distributed by a foreign company. Other goods are assembled with a virtual hodgepodge of foreign made components and then sold in countries around the world. When a good's production is truly globalized, who is responsible for its trade protection? Endogenous protection appears quite limited under these increasingly common scenarios.

In light of this transformation of global production, how do we characterize those situations where one government pressures another to help protect it from the trade policies of a third? For example, there is strong evidence that states with smaller economies are disadvantaged in the World Trade Organization (WTO) and other regional trade organizations as these states have fewer economic and political resources to pursue their interests satisfactorily (Bown 2005; Simmons and Guzman 2005; Busch, Reinhardt, and Shaffer 2009). When these smaller countries lobby larger states in the international system to intervene on their behalf, endogenous protection (which focuses on interest groups lobbying their domestic governments for protection in the international trading regime) does little to help us to understand these trade situations.

We argue that we need to move beyond our current understanding of endogenous protection to better explain the adoption of several trade policies in the international system today. Multinational corporations are not only searching for protectionist policies that may promote their good in their domestic market, but, in light of the strengthening of the dispute settlement mechanism in the WTO, they also need the support of states that have the capability to pursue their interests in the global trading governing body as well. That state may or not be the multinational corporation's home state or where the product is cultivated. In the first scenario outlined above, we introduce a new term, extended endogenous protection, to characterize situations where multinational corporations and other industry-related interest groups pressure their 'home' governments to protect a good that is not necessarily produced nor sold in the 'home' state. In the second scenario, we introduce another new term, exogenous protection, to characterize a situation whereby one state (or states) lobbies a second state to help advance its interests in the international trading system. While these concepts potentially help us to understand the formation of trade policy relating to everything from automobiles to sugar, in the following pages, we focus on how extended endogenous protection and exogenous protection better explain a key, and, until recently, intractable dispute over bananas.

In this paper, we examine the sources of the banana dispute between the US and the EU through the lens of both exogenous protection and extended endogenous protection. This case is complex in that, on both sides,

domestic interest groups are not lobbying a government that will provide them direct benefits (Wilson 1980), especially when those benefits will be extended to parties outside of the state. Instead, these interest groups related to the good in question seem to be acting strategically in choosing who has the legal capacity to defend their policies in the greater global trading system. While prior research (Alter and Meunier 2006) has focused on the formation of the European single market and the revision of the Lomé Convention, we find that exogenous protection employed through the appeals for greater aid from former British (and to some extent, French, Spanish and Portuguese) colonies also played a role in motivating the EU to defend its trade policy in the GATT and the WTO against the preferences of Germany and other EU members. On the other hand, extended endogenous protection better explains the United States' participation in the trade dispute. US involvement emerged largely as a result of Chiquita lobbying in the US to help increase its access to the European market for bananas grown primarily in Latin America. Chiquita lobbied US government officials (both Republican and Democrat, members of Congress and presidents) to protect a product produced and sold outside the borders of the US (Bartlett and Steele 2000, Read 2007, Greenwald and Novak 1996, Stovall and Hathaway 2003, commoncause.org, Sands 1994, Rosegrant 1999, Jones 2001, A Growing Addiction 2001, Banana Republic 2000).

In the next section, we develop the concepts of extended endogenous and exogenous protection and how they differ from the more traditional endogenous protection. We then illustrate how these two concepts better explain EU and US involvement in the global banana dispute.

Endogenous, Extended Endogenous, and Exogenous Protections

Since its inception in 1995, there have been over four hundred disputes filed within the World Trade Organization (WTO 2012). The increase in the number of disputes under the WTO regime compared to the GATT has been attributed to the strengthening of its dispute resolution mechanism (Alter 2003; Zangl 2008; Pelc 2009). The reasoning behind the disputes varies and includes anti-dumping measures, unfair duties and measures inhibiting the trade of certain goods. These disputes also cover a wide range of goods and services, including agricultural, industrial, and intellectual.

While several studies have concentrated on the characteristics of the states embroiled in WTO disputes, the main reason why disputes occur boils down to endogenous protection (see Grossman and Helpman 1994; Maggi and Rodriguez-Clare 1998; Goldberg and Maggi 1999; Mitra 1999; Eicher and Osang 2002). This theory helps to explain why states pursue select protectionist policies within the greater context of global free trade. Businesses form interest groups in order to pressure their governments to adopt policies that protect their specific product (Goldstein 1998; Shaffer 2003). Interest groups seek preferential treatment from government officials, and, in return, they can provide campaign contributions and votes



from those whose jobs are affected by trade in that product. Through this interest group pressure and their ensuing campaign contributions, governments form trade policies that are preferential towards these businesses and industries, which, in turn, win them electoral support.

In an era where multinational corporations and foreign direct investment are central in international relations, what constitutes a domestic product is not necessarily clear. In order to accommodate the protection of goods that are neither produced nor assembled internally, but are still considered to be domestic, we introduce a new term: extended endogenous protection. This term describes the situation where multinational corporations and other interest groups pressure their home governments to protect a trade in goods that is not necessarily produced (and in some instances, nor sold) in the state where its headquarters are located.

Another aspect of the changing global trading system was the greater emphasis on the rule of law, transparency, and legalism in the WTO dispute resolution system (Zangl 2008; Kim 2008). In the years since the 1995 creation of the WTO (and this institutional strengthening), legal capacity has become central to understanding a state's participation in the dispute resolution system. Legal capacity refers to a state's ability "to monitor and enforce rights and obligations" of other WTO members (Busch et al. 2009, p. 560). There are many aspects to understanding a state's legal capacity, including its ability to staff a permanent delegation (especially one with specialized legal training) at WTO headquarters in Geneva. While technical assistance is provided by the WTO to these lesser developed states in order to promote full participation (Shaffer 2006), it does not fill the knowledge and resource void that defines the developing world's experience within the WTO's Dispute Settlement Body (Lacarte-Muro and Gappah 2000). Lesser developed countries lack the political and economic resources necessary to monitor their various trading partners' behaviors. Therefore, they are more selective about the complaints they choose to file, and instead, pursue those that they are only certain they can win due to available information (Simmons and Guzman 2005).

In light of this legal capacity argument, we expect multinational corporations to choose from among those states that are somehow involved in the production of their good as to which one(s) would be the most appropriate (and resourceful) representative of their interests in the WTO dispute resolution forum. Endogenous protection is limited in that it does not consider a state's ability to engage in the highly legalistic (and costly) WTO dispute mechanism. Instead, it assumes that legislators that receive payouts from interest groups translate them into protectionist policies. Our approach is more applicable to today's environment in that multinational corporations do continue to lobby legislators, but they choose to lobby them in countries that have the ability to follow through and support these policies in the global trading regime.

Exogenous protection, therefore, refers to a situation whereby one state lobbies a second to help advance its own trade interests. Small states are restricted in their influence over international decisions, in that they do not have the resources necessary to promote their own interests (Laurent 2006). Therefore, they ally with larger, stronger states that too will benefit from the achievement of the smaller states' policy goals (Busch, Reinhardt, and Schaffer 2009). Given the historical importance of a colonial legacy, one of the bilateral relations where we expect to see exogenous protection at work involves the relationship between former colonial powers and their colonies (Athow and Blanton 2002; Bernhard et al. 2004, p. 229). However, exogenous protection is not solely confined to former colonial relationships. Small states are "dependent on the policies of other players in the global trading system," and, therefore, may appeal to their larger trading partners for assistance in promoting their policy objectives (Laurent 2006, 441).

What is central to our discussion of extended endogenous protection and exogenous protection is an outside party's ability to influence a government's policy outcomes. While interest group influence on trade policy is not novel (Olson 1965), the ability of an interest group (or, in the case of exogenous protection, a foreign country) to convince a government to protect a good that is not its native product is. While many works have already focused on the influence of interest groups on trade policy in the EU (Duer 2008, Michalowitz 2004; Pedler 1994; Pollack 1997) and in the US (Fordham and McKeown 2003; Gilligan 1997; Smith 2000), this paper focuses on interest groups with non-native interests that influence the trade policies of a different state. We assume the states are rational actors, and therefore, seek to derive some benefit from this action. How will the government be rewarded for protecting a good that will benefit interests outside of the state? The interest group cannot produce votes to compensate those politicians that supported their cause, as the good's production facilities are located on foreign soil and employs foreign workers. There is no constituency to protect. Instead, extended endogenous and exogenous protection must provide some benefit to elected officials other than outright votes. This paper examines why governments are motivated to protect a specific good that will not provide obvious electoral benefits.

The series of trade disputes between the US, Latin America, the EU, and the ACP countries in the 1990s and 2000 diverges from the basic understanding of endogenous protection. Neither the United States nor the European Union employs large numbers of people involved in the banana trade. However, both actors have invested millions of dollars in these WTO disputes. We suggest that these governments involve themselves in these types of disputes in order to garner some sort of domestic political support, even when the source of that benefit is not from an expected source. Therefore, to illustrate our concepts of extended endogenous and exogenous protection, we will use the motivations as to why the EU adopted



the contentious banana regime in the first place, and why the US stepped up to defend the Latin American banana producers who were hurt by its implementation.

Exogenous Protection: The Creation of the EU Single Market and ACP Bananas

Europe's preference for ACP grown bananas can be traced back to the immediate years following World War II. The British government was focused on increasing economic development in their Windward Island colonies, and in turn, invested heavily in cultivating an export-oriented banana industry. This new arrangement also benefitted two British companies that became the main transporter of Windward Islands bananas to the UK: Fyffes (indirectly through the Tropical Fruit Company affiliated agency) and the Geest owned Antilles Imports Ltd. Clegg (2002) characterizes this as an attempt to minimize the share of American (distributed) bananas in the British market. Therefore, the 1948–1973 banana trade benefitted the Windward Islands, British businesses, and the British government: the Windward Islands received British aid for a fledgling industry, British businesses gained profits through being the sole distributors of these Caribbean bananas, and the British government was satisfied in its attempt to edge US dominance in the banana trade.

The 1970s brought many changes to the economic and political situations in Britain and their Caribbean colonies. After years of difficult negotiations regarding membership accession, the UK joined the European Economic Community in 1973. While this facilitated trade with the continental member states, the UK was hostile towards certain policies that did not directly benefit them (such as the Common Agricultural Policy, which resulted in the British Rebate). The British colonies that made up the Windward Islands gained their political independence in the 1960s and 1970s. Economically, the British had invested much in the creation and continuation of the Windward Island banana industry, and therefore, was willing to protect and promote Caribbean bananas within the EEC regime (Grossman 1994, 152; see also Payne 2006). The reality of the situation is that “without continual infusions of British aid, the financially weak Windwards banana industry would have collapsed” (Grossman 1994, 152; see also Payne 2006). This dependence was first tested when the UK joined the EEC, but was tested further when the member states of the EEC began to negotiate the SEA.

At the time that the SEA was signed in 1986, the EEC member states generally operated within one of three banana import system arrangements (Clegg 2008: 228; see also Bessko 1996; Borrell 1994, 1996; Borrell and Cuthbertson 1991; Borrell and Yang 1990, 1992; Frundt 2005). Britain, France, Greece, Italy, Portugal and Spain maintained preferential treatment towards ACP-produced bananas. Germany, who was the largest European consumer of bananas but did not have overseas colonies, maintained a duty-free market. Most of its bananas came from Latin America

and cost less compared to the bananas consumed elsewhere in the Union. Finally, Belgium, Denmark, Ireland, Luxembourg, and the Netherlands maintained a 20 per cent tariff on all non-ACP bananas. This banana regime came under stress as a result of regional and global shifts in international trade. In Europe, the adoption of the SEA required that the EU member states form a common external trade policy with respect to all imports, meaning that they would have to adjust their trade policies so that banana imports were treated equally in all member states (Sutton 1997). As the EU negotiated a single market in banana imports, they sought to balance obligations to GATT and the Fourth Lomé Convention (1989).

The EU member states were constrained by Article 1 of the Banana Protocol attached to the Fourth Lomé Convention whereby they could not adopt policies that would place ACP banana-producing countries in a less favorable position than existed at the time or in the past (Sutton 1997, p. 11). GATT, on the other hand, required that the EU treat imported bananas from ACP countries and Latin America equally. If the EU did this, it would have violated Article 1 and possibly spelled the end of the Caribbean banana industry (Grossman 1994). The demands on the EU to not discriminate between banana imports from the developing countries of Latin America and the ACP via GATT and to discriminate in favor of ACP bananas via Article 1 of the Banana Protocol were fraught with challenges. After years of negotiations, the EU adopted the Common Organisation of the Market in Bananas in February 1993, a single market regime based on quota, tariff and license protection for ACP bananas. While seventy-nine states belong to the ACP, only twelve 'traditional' ACP banana-exporting countries directly benefited from the agreement (Belize, Cameroon, Cape Verde, Dominica, Grenada, Cote d'Ivoire, Jamaica, Madagascar, Somalia, St. Lucia, St. Vincent and the Grenadines, and Suriname) (Banana Link ACP Bananas).

The EU's new external trade policy was, however, more protectionist than the individual national banana regimes that had existed up to that point (Read (2007, p. 111)). After the creation of the ACP banana regime, it is estimated that Europeans paid eighty percent more for bananas than if prices had been set by the free market (Borrell 1997; Mlachilan et al. 2010). However, those states with former colonies were "willingly [paying] a premium for bananas from the ACP region" (Frundt 2005, 218). The EU had adopted and would defend a banana policy that increased the costs of bananas for European consumers, divided its member states, lined the pockets of businesses based primarily in a small number of their member countries (and the third party states that benefitted from their markets), strained relations with the United States, undermined its perceived commitment to free trade and to international treaty obligations, and created deep animosity with most of the Latin American banana exporting countries that provided the majority of its bananas. Why, then, did the EU pursue what seems to have been such a costly policy?



This is where we argue that exogenous protection occurs. Under endogenous protection, one would expect governments to be responsive to businesses located within their borders so as to extract electoral support and/or campaign contributions. However, in the bananas dispute case, Europe was not responsive to its citizens (Cadot and Webber 2001). Instead, the EU was responsive to interest groups and multinational corporations representing agricultural interests in former colonies, specifically those connected to the former colonies of the UK and France.

Unfortunately for the Caribbean and other ACP countries, its banana production cannot compete against the production of Latin America-produced bananas in an unrestricted market. Bananas from Latin America are more competitive than those grown in the Caribbean because of better topography (fertile soil and available land) and cheaper transportation costs (Grossman 1994; Borrell 1994; UNCTAD Banana Crop 2009). While some might prefer the smaller bananas grown on family farms and in comparatively environmentally friendly conditions, Latin American bananas dominated the market. To compensate for their economically inefficient product, the Caribbean island banana-producing countries (and those EU-based corporations that distribute these bananas) lobbied their former European colonizers for preferential access to their domestic banana markets.

Initially, these countries were successful. The former colonies of the ACP gained preferential access to the banana markets of individual member states up through the creation of the common market. In the Caribbean, Dominica, Grenada, Jamaica, Saint Lucia, and St. Vincent and the Grenadines relied principally upon their status as former British colonies for economic protection. And, fortunately for them, the British government remained sympathetic (Clegg 2005, 29).

With the signing of the SEA in 1986, Caribbean banana lobbying efforts became much more complicated. In addition to a more aggressive lobbying campaign targeted at European member states, especially the UK, the Caribbean states also extended their lobbying to the supranational institutions of the EU, especially the European Parliament and DG Trade (the commissioner in charge of EU Trade policy). To assist in the coordination of their lobbying efforts, they formed the Caribbean Banana Exporters Association (CBEA) in 1988 to lobby for the adoption of a new policy that remained favorable to the Caribbean. The CBEA worked with private banana companies and a public relations firm to pursue Caribbean interest in the design of a new banana policy (Clegg 2002, 2005). Between 1988 and 1992, the European Commission was the target of 'intense lobbying, particularly on the part of the ACP producer countries in the Caribbean, together with banana companies in Britain and the West India Committee' (Sutton 1997, p. 13).

Under the Common Organisation of the Market in Bananas that was agreed to in 1993, the seventy-nine ACP countries, including the Caribbean nations, would export their bananas to the EU tariff free while bananas

originating from outside the ACP would face some combination of licenses, tariffs and/or quotas. The EU's 1992 recommendations that formed the basis for the 1993 agreement favored the managed market of the ACP, which reflected the influence of the UK's former colonies more so than the free trade preference of Germany (Sutton 1997, p. 13). ACP banana-exporting countries would also benefit from a financial package that would help them to adjust to their new, more competitive environment. The ACP countries succeeded in ensuring that bananas continued to make up a large share of their export economies even though they were uncompetitive relative to bananas produced by Latin America. These conditions, however, raised the price of bananas to European consumers and ate into the profits of the world's largest suppliers.

As mentioned earlier, most small states have access to fewer resources in defending themselves in international trade organizations (LaCarte-Muro and Gappah 2000). This observation holds true for the Caribbean in the banana disputes. Several studies have highlighted the limited resources with which the Caribbean banana producing states could bring to bear in having their voice heard relative to the other parties in the banana wars – the US, EU, and Latin America. Jamaica, Barbados, and Trinidad and Tobago are the only three Caribbean countries that maintain permanent representation at the WTO offices in Geneva (Clegg 2005). Finally, in an oft-repeated story about the Caribbean's disadvantage in the WTO, two of the Windward Islands' legal advisors were not allowed to attend the organizational meeting because they were private lawyers and not permanent members of the Windward Islands' trade delegation (Fridell 2010, Myers 2004, p. 89–90). Even though small states were the most adversely affected by the outcome of the banana dispute in the WTO, the Caribbean states were not even formal parties to the proceedings (Payne 2008). The Caribbean banana producing countries had limited access to WTO sessions, were permitted to make only brief statements, were prohibited from posing questions to complainants or submitting rebuttals, and only received copies of the panel's report after it had been published (Myers 2004; Fridell 2010).

The EU adopted and supported its discriminatory trade policy not because it was responsive to domestic industries (endogenous protection) nor was it overly concerned about protecting its multinational corporations and their business operations overseas (extended exogenous protection). It did so mainly because of what we call exogenous protection. Through the EU, the British were protecting the interests of non-domestic groups with which they shared a common colonial history. While the EU's preferential trade policies towards the Caribbean were also designed to promote economic development through trade rather than aid, it is unclear that the EU would have gone to such lengths to defend the globally unpopular policy had the Caribbean not lobbied the EU not only for their preferential treatment, but also support in the WTO, during the entire dispute.



Extended Endogenous Protection: Latin American and US Involvement

After the adoption of the EU banana regime in 1993, Colombia, Costa Rica, Guatemala, Nicaragua, and Venezuela asked the GATT to consider whether the ACP/EU trade agreement violated the organization's principles (Read 2007). At this point, the US government supported the Latin American states' position, but it was not actively engaged in the dispute. It was not until 1996 that the US joined the Latin American countries as a party to the complaints against the EU and their initial concessions after the GATT found their regime to be against organizational expectations. While there appears to be other justifications for the US joining the case, such as knocking down a preference scheme at a time of increasing globalization, it also appears that the Clinton Administration was heavily influenced by Chiquita's US-based lobbying efforts. Eventually, the US convinced Colombia and Costa Rica, two countries that had already resolved their banana dispute with the EU through the Framework Agreement of 1994, which increased the quota of dollar bananas from these exporting countries along with other benefits, to join the WTO case.

Throughout the 20th century, the US banana trade was dominated by three major multinational corporations: Chiquita (previously United Fruit), Dole and Fresh Del Monte. Today, more than 90 per cent of US banana imports come from Latin American sources (UNCTAD Banana Market). The US government has consistently responded to pressure from US-based banana companies to protect their economic interests overseas. This allowed the US to take a 'laissez-faire' approach to the intricacies of the banana market itself (Stovall and Hathaway 2003). Throughout the twentieth century, the US government was involved directly and indirectly in protecting banana interests in Latin America, particularly in the banana producing countries of Guatemala, Honduras, and Costa Rica, as that is where most US-based MNCs are involved in banana production. However, the creation of the European Common Market and the adoption of the Lomé Convention had a major effect on not only the Latin American, but also US banana trade.

Chiquita had given up much of its lands in the Caribbean in the early 20th century, as the banana crop was stricken by Panama disease and it was deemed a waste to keep the plantations (Koeppel 2008). By giving up this land, Chiquita bananas had limited access to European markets in the 1990s after the adoption of the preferential regime. At the same time, surplus bananas began to flood the US markets, driving down the fruit's US price. While US consumers benefited, the sharp decline in global banana prices was the breaking point that drove Chiquita to lobby the US government to intervene against the EU's preferential trade practices.

The US's involvement in the Banana Wars can, in many ways, be traced back to one man: Carl Lindner Jr., the Chiquita Brands International CEO from 1984 to 2001.¹ Until his death in 2011, Lindner had been one of the largest individual campaign donors in recent United States history. His donations were given mostly to the Republican National Committee and

various Republican presidential and congressional candidates up to the 1990s. In late 1993, however, he gave the Democratic National Committee his first large donation of \$250,000. Some argue that this money was given to attract the attention of President Bill Clinton and his trade representative Mickey Kantor, who quickly cited the impact of the EU preferential trade agreement on US firms (in general) that existed in the banana-producing countries of Latin America (Bartlett and Steele 2000, Read 2007). Evidently, Lindner (and through him, Chiquita) had given sufficient money to garner the administration's attention. While sympathetic to Chiquita's plight, the US had been reluctant to intervene prior to the large contribution because it perceived the matter to have little importance to the US economy.

Although Clinton may have pleased Lindner by protecting Chiquita's banana interests, Lindner wanted to ensure that the next president, whoever that might be, would continue to support its interests. Lindner was a strong financial supporter of the 1996 presidential campaign of Senator Bob Dole. He provided Dole the privilege of using the Chiquita company jet in order to travel to campaign stops. Lindner had already been a strong patron of Dole throughout his Senate career, and Dole rewarded that by consistently protecting US banana interests through introducing banana related riders in Senate free trade bills (Greenwald and Novak 1996). In August 1994, Dole and eleven other US senators sent a formal letter to Kantor, insisting that the US Trade Representative delve into the EU banana regime. Dole also set up and attended two meetings that Lindner had with Kantor that same year (Stovall and Hathaway 2003).

Even though Lindner gave primarily to Dole during the campaign, President Bill Clinton continued to be concerned about the European common market and its preferential trading agreements regarding bananas with their former ACP colonies following his electoral victory. In 1996, the US filed a second complaint against European preferential trade practices. The next day, Lindner gave the Democratic Party more than \$500,000 in soft money, which can be construed as a reward for supporting his agenda (commoncause.org). The Clinton administration supported another complaint against the European banana regime in 1999.

While Lindner and Chiquita may not be the only factors as to why the US joined the fight against the EU banana regime, the timing of Lindner's campaign contributions and US actions on behalf of the banana regime is unmistakable. Chiquita was the only US company to lobby the government to pursue this agenda. The only other groups to support Chiquita were the Hawaiian Banana Industry Association (which was comprised of 150 family farms) and the Farm Bureau Federation (Sands 1994). Dole itself had purchased into the ACP market share by investing in African banana production (Stovall and Hathaway 2003). Therefore, pursuing this case against the EU was not beneficial to all US banana multinational corporations. It was only beneficial to Chiquita. A US lawyer involved in the case claimed that 'the driving force behind the case is [sic] Chiquita . . . not



the governments of any of the countries, but Chiquita and Carl Lindner in particular' (quoted in Rosegrant 1999, p. 11–12).

Lindner continued to invest in the banana dispute after the Clinton administration initiated the various WTO cases. When faced with the 2000 presidential election, Lindner threw his political and financial support behind then Texas Governor George W. Bush. With his Republican leanings and his prior support of Bush's father, the decision was not unexpected. He donated close to \$800,000 in hard and soft money during the 2000 campaign election cycle, and after Bush's victory, Lindner gave Bush's inaugural fund \$200,000, of which \$100,000 was returned because Bush did not want to appear partial towards one donor (Jones 2001). After his election, Bush appointed a former Chiquita vice president to be one of his deputy Chiefs of Staff, which threatened the Europeans and prepared them for diplomatic hostility (A Growing Addiction 2001).

By late 2000, another of Lindner's political patrons, then-Republican Senator Trent Lott, suggested that Chiquita be given a veto on how the EU-US banana dispute would be resolved (Banana Republic 2000). At this point, the dispute was coming to a head and the EU was willing to discuss compensation with the US. However, the suggested veto would have allowed Lindner and Chiquita to have a hand in deciding how much compensation would be appropriate. Considering that Chiquita was on the verge of bankruptcy (which they eventually filed for in late 2001), it was expected that the company would hold out for a large amount, but instead, the veto was never granted as it would give a private citizen the same or more power than the president himself. Therefore, until the very end of the dispute, Lindner made sure to exert his political influence over various government officials.

At first glance, the US side of the banana dispute reads like a classical example of endogenous protection. The CEO of Chiquita gives money to various political parties and candidates in return for the protection of his industry. What makes this case one of extended endogenous protection is that there is so little constituent support for this case. Chiquita sought protection for its bananas produced in Latin American countries and exported to the EU. The bananas were not produced within the United States, and a change in trade flows to the EU would hurt the US consumer. Which jobs are being saved by the US government fighting against the EU banana regime? Clearly not US jobs since 90 per cent of -consumed bananas are being imported from Latin America. Chiquita argued that their US employees (about 15 per cent of their total employees) provide a 'value added' that would make bananas 'a major US agricultural priority' (Sands 1994, A13). However, many observers regarded this case as suspicious since the 'USTR had never before taken on a case with so little US jobs at stake' (Rosegrant 1999, p. 11).

The argument can also be made that US involvement in the dispute was not even saving or protecting the US banana industry at large, since Chiquita was the only multinational corporation pressuring the

government while Dole and Fresh Del Monte, for the most part, remained on the sidelines until 2001. At that time, Dole's chairman and chief executive officer, David H. Murdock, complained that the 2001 EU-US agreement was designed so as to primarily benefit Chiquita (De Palma 2001). The agreement was 'inconsistent with the American free enterprise system' and that 'all American agriculture exporters will be deeply disappointed by the action.' In effect, the agreement did not promote the interests of the US or its three main banana companies; it only promoted the interests of Chiquita. In addition, the US did not seem to be swayed by the argument that breaking the EU-ACP banana relationship would destroy the Caribbean banana industry. Some had warned that the loss of this revenue would potentially lead to greater insecurity in the region as the unemployed would turn to illegal activities such as drug production and trafficking (Report on MEP Fact Finding Mission to Guadeloupe and the Windward Islands 1997, cited in Barfield 2010, Knight and Persaud 2001; Morazán 2010).

At first glance, the US and Latin American relationship also appears to be an example of exogenous protection. Through the neo-colonization of Latin America, US banana companies' interests continue to be entrenched with those of the countries that produce them. The relationship is so firm that the Latin American countries that export bananas are typically referred to as 'dollar banana' exporting countries and their products as 'dollar bananas' because 'they traditionally fall within the influence of the US dollar, but also because the growth of their banana industry was usually associated with the US-based multinational companies that control directly or indirectly around 60 per cent of their banana exports' (Banana Link Dollar Bananas). If Panamanian bananas are receiving discriminatory treatment, so are Chiquita bananas since they are sometimes one and the same.

However, the US was not the direct target of a Latin American-based lobbying effort. In fact, the US did not participate in either of the two GATT proceedings and might actually have been encouraged not to participate (Stovall and Hathaway 2003, p. 152–53). The Latin American banana producing nations feared that their interests would be secondary to those of the US and therefore less of a priority. Finally, there is one more piece of evidence that undermines an exogenous protection argument explanation of US involvement in the banana dispute. Colombia and Costa Rica were satisfied with the Framework Agreement that they signed with the EU in 1994. However, Chiquita lobbying appears to have helped to change the US' position. The US then pressured Colombia and Costa Rica not to implement the Framework Agreement and, instead, to join it in a WTO complaint against the EU. While it is reasonable to expect the Latin American states to seek US assistance against foreign trade competitors (exogenous protection), it does not look like the US was responding to Latin American interests in the banana disputes.

The US side of the banana conflicts better supports our theory of extended endogenous protection. Following a successful lobbying campaign,

the US Government acted to protect a US multinational that was involved in the production and sale of a product entirely outside of US borders. The US Government chose to pursue action against the EU banana regime not to save American jobs or an American industry, but instead, to protect a US-based multinational's international operations that would have little effect on the overall US economy.

Conclusion

In December 2009, the Latin American banana producers and the EU finally reached an accord whereby import taxes on bananas from Latin America would be reduced to \$114 per ton by 2017 (Castle 2009). In January 2011, the European Parliament's International Trade Committee (INTA) recommended that the full Parliament support the agreement and, in February, Parliament voted 501–114 in favor of the agreement.

EU banana consumers, US-based multinationals, and the banana exporting countries of Latin America would appear to be the winners in the dispute. While it is extremely difficult today to predict with much certainty the supply and, therefore, the cost of bananas in the year 2017 when import taxes reach \$114 per ton, analysts estimate that the agreement will lead to an increase in Latin American banana exports to the EU by seventeen percent (Freedman 2009; Miller 2009) and will help decrease costs by eleven (Freedman 2009) or twelve (Miller 2009) percent. The former European colonies that had preferential access to the European market and US consumers appear to be the two losers. Some estimate that banana exports from the ACP to the EU will decline approximately fourteen percent costing these colonies \$40 million each year (Miller 2009). The EU, however, also negotiated with these ACP producers in order to soften the financial impact (Guth 2012). The cost of bananas in the US will also increase marginally as producers will instead sell their products in the Europe Union (Freedman 2009). This agreement appears to have resolved the primary banana dispute between the Latin American banana producers and the European banana consumers.

However, this paper uses the case of the banana disputes origins to be a conduit for the introduction of two new concepts that extend our understanding of endogenous protection into today's marketplace: exogenous protection and extended endogenous protection. Like many other products in the world, the involvement of the EU and the US in the banana disputes is not necessarily a clear-cut case of endogenous protection. Neither the US nor the EU are major banana producers, and yet they invested a significant amount of political and financial resources in protecting preferential trading arrangements (the EU) or making the case of how those PTAs negatively affect interests in the banana-growing regions (the US). Instead, multinational corporations and other interest groups recognized that these actors had greater legal capacity within the WTO dispute resolution system to protect their policies in the global trading system. Through external influences, global banana trade became an issue through what we

call extended endogenous protection in the case of the US and exogenous protection in the case of the EU.

We expect that the protection of non-native goods will become more widespread as the production of certain goods becomes a worldwide phenomenon. Agricultural products are grown in one country and distributed by a multinational corporation headquartered in another. Many highly technological products are made of components that originate in a variety of countries and are assembled in another. The concept of endogenous protection is not broad enough to consider all the intricacies of the global production chain. By goods becoming multinational, interest groups and multinational corporations are better able to pick and choose which states to invest in and lobby for their support, at both the national and international level. Therefore, the creation of new concepts, like exogenous protection and extended endogenous protection, allows scholars to better explore the interactions between states and non-state actors (such as multinational corporations) inside and outside the context of the WTO rules and governing system.

Endnote

¹Hellman, Jones, and Kauffman (2000) introduced the concept of state capture to describe situations where oligarchs make special payments to elected officials to extract favors. However, because the US allows for legal campaign donations (which are not necessarily payments for favors), this situation with Lindner/Chiquita and the US government is not considered to be an example of state capture.

References

- Ahearn, Raymond J. 2007. "Trade Conflict and the U.S.-European Union Economic Relationship." *CRS Report for Congress*.
- Alter, Karen J. and Sophie Meunier. 2006. "Nested and Overlapping Regimes in the Transatlantic Banana Trade Dispute." *Journal of European Public Policy* 13(3): 362–382.
- Alter, Karen J. 2003. "Resolving or Exacerbating Disputes? The WTO's New Dispute Resolution System." *International Affairs* 79(4): 783–800.
- Athow, Brian, and Robert G. Blanton. 2002. "Colonial Styles and Colonial Legacies: Trade Patterns in British and French Africa." *Journal of Third World Studies* XIX(2): 219–241.
- Banana Link. 2010. "ACP Bananas." <http://www.bananalink.org.uk/content/view/129/79/lang,en/>. (2010, June 3).
- Banana Link. 2010. "Dollar Bananas." <<http://www.bananalink.org.uk/content/view/130/80/lang,en/>>. (2010, June 3).
- "Banana Republic." October 26, 2000. *Washington Post*.
- Bartlett, Donald and James Steele. February 7, 2000. "Big Money and Politics: Who Gets Hurt." *Time*.
- Becker, Elizabeth. March 26, 2003. "W.T.O. Rules Against U.S. on Steel Tariff." *The New York Times*.



- Bernhard, Michael, Christopher Reenock, and Timothy Nordstrom. 2004. "The Legacy of Western Colonialism on Democratic Survival." *International Studies Quarterly* 48(1): 225–50.
- Bessko, Zsoit K. 1996. "Going Bananas Over EEC Preferences?: A Look at the Banana Trade War and the WTO's Understanding on Rules and Procedures Governing the Settlement of Disputes." *Case Western Reserve Journal of International Law* 28(2).
- Borrell, Brent. 1994. "EU Bananarama III." *Policy Research Working Paper*, no. 1386. Washington, DC: World Bank.
- Borrell, Brent. 1996. "Beyond EU Bananarama 1993: The Story Gets Worse." Canberra, Australia: Centre for International Economics.
- Borrell, Brent. 1997. "Policy-making in the EU: The Bananarama Story, the WTO, and Policy Transparency." *Australian Journal of Agricultural and Resource Economics* 41(2): 263–276.
- Borrell, Brent and S. Cuthbertson. 1991. "EC Banana Policy 1992: Picking the Best Option." Canberra, Australia: Centre for International Economics.
- Borrell, Brent and M. Yang. 1992. "EC Bananarama 1992, The Sequel: The EC Commission Proposal." WPS 958. Washington, DC: World Bank.
- Bown, Chad P. 2005. "Participation in WTO Dispute Settlement: Complainants, Interested Parties and Free Riders." *World Bank Economic Review* 19(2): 287–310.
- Busch, Marc L., Eric Reinhardt, and Gregory Shaffer. 2009. "Does Legal Capacity Matter? A Survey of WTO Members." *World Trade Review* 8(4): 559–577.
- Cadot, Olivier and Douglas Webber. 2001. "Banana Splits and Slipping over Banana Skins: The European and Trans-Atlantic Politics of Bananas." EUI Working Papers, RSC No 2001/03.
- Castle, Stephen. December 16, 2009. "Pact Ends Long Trade Fight Over Bananas." *New York Times*.
- Clegg, Peter. 2002. "The Establishment of the Windward Islands Banana Industry: Commercial Opportunity and Colonial Necessity." *Social and Economic Studies* 51(2): 155–174.
- Clegg, Peter. 2005. "Banana Splits and Policy Challenges: The ACP Caribbean and the Fragmentation of Interest Coalitions." *Revista Europea de Estudios Latinoamericanos y del Caribe* 79 (October): 27–45.
- Clegg, Peter. 2008. "The Commonwealth Caribbean and the Challenges of Institutional Exclusion." *The Round Table* 97 395 (April): 227–241.
- DePalma, Anthony. April 14, 2001. "Dole Says Trade Accord on Bananas Favors Rival." *New York Times*.
- Duer, Andreas. 2008. "Interest Groups in the European Union: How Powerful Are They?" *West European Politics* 31(6): 1212–30.
- Eicher, Theo and Thomas Osang. (2002) 'Protection for Sale: An Empirical Investigation Comment', *The American Economic Review*, 92(5): 1702–1710.

- Fordham, Benjamin O. and Timothy J. McKeown. 2003. "Selection and Influence: Interest Groups and Congressional Voting on Trade Policy." *International Organization* 57(3): 519–49.
- Freedman, Jennifer M. December 15, 2009. "EU, Latin American Accord Ends Banana-Import Dispute (Update 1)." *Bloomberg.com*.
- Fridell, Gavin. 2010. "The Case Against Cheap Bananas: Lessons from the EU-Caribbean Banana Agreement." CERLAC Working Papers Series (March).
- Frundt, Henry J. 2005. "Toward A Hegemonic Resolution in the Banana Trade." *International Political Science Review* 26(2): 215–237.
- Gillian, MJ. 1997. *Empowering Exporters: Reciprocity, Delegation, and Collective Action in American Trade Policy*. Ann Arbor: University of Michigan Press.
- Goldberg, Pinelopi K. and Giovanni Maggi. (1999) 'Protection for Sale: An Empirical Investigation', *The American Economic Review*, 89(5): 1135–1155.
- Goldstein, Judith. 1998. "International Institutions and Domestic Politics: GATT, WTO, and the Liberalization of International Trade." In *The WTO as an International Organization*, edited by Anne O. Krueger. Chicago: University of Chicago Press.
- Greenwald, John and Viveca Novak. January 22, 1996. "Banana Republican." *Time*.
- Grossman, Gene M. and Elhanan Helpman. 1994. "Protection for Sale." *The American Economic Review* 84(4): 833–850.
- Grossman, Lawrence S. 1994. "British Aid and Windward Bananas: The Case of St. Vincent and the Grenadines." *Social and Economic Studies* 43(1): 151–179.
- "A Growing Addiction." September 4, 2001. *The Washington Post*.
- Guth, Eckart. 2012. "The End of the Banana Sage." *Journal of World Trade* 46(1): 1–32.
- Hellman, Joel S., Geraint Jones, and Daniel Kaufmann. 2000. "Seize the State, Seize the Day: State Capture, Corruption, and Influence in Transition." *World Bank Policy Research Working Paper*, No. 2444.
- Jones, Adam. January 24, 2001. "President Lends An Ear for Banana Battle." *The Times (London)*.
- Kim, Moonhawk. 2008. "Costly Procedures: Divergent Effects of Legalization in the GATT/WTO Dispute Settlement Procedures." *International Studies Quarterly* 52: 657–686.
- Knight, W. Andy and Randolph B. Persaud. 2001. "Subsidiarity, Regional Governance, and Caribbean Security." *Latin American Politics and Society* 43(1): 29–56.
- Koeppel, Dan. 2008. *Banana: The Fate of the Fruit that Changed the World*. New York: Hudson Street Press.
- LaCarte-Muro, Julio A. and Petina Gappah. 2000. "Developing Countries and the WTO Legal Dispute Settlement System: A View from the Bench." *Journal of International Economic Law* 3(3): 395–401.



- Laurent, Edwin. 2006. "Small States in the Banana Dispute: Implications of EU Reforms for Eastern Caribbean Islands and Lessons for the Future." In *WTO at the Margins: Small States and the Multilateral Trading System*, edited by Roman Grynberg. Cambridge: Cambridge University Press.
- Maggi, Giovanni and Andres Rodriguez-Clare. (1998) 'The Value of Trade Agreements in the Presence of Political Pressures', *The Journal of Political Economy* 106(3): 574–601.
- Miller, John W. December 16, 2009. "EU Ends 16 Year Banana Trade Battle." *Wall Street Journal*.
- Mitra, Devashish. (1999) 'Endogenous Lobby Formation and Endogenous Protection: A Long-Run Model of Trade Policy Determination', *The American Economic Review* 89(5): 1116–1134.
- Mlachila, Montfort, Paul Cashin, and Cleary Haines. 2010. "Caribbean Bananas: The Macroeconomic Impact of Trade Preference Erosion." IMF Working Paper, March.
- Michalowitz, I. 2004. *EU Lobbying—Principals, Agents, and Targets: Strategic Interest Intermediation in EU Policy-Making*. Munster: LIT Verlag.
- Morazán, Pedro. 2010. "A Snapshot of the Banana Trade: Who gets what?" Institut Suedmind. http://www.suedwind-institut.de/downloads/2010-08-18_Study_A-Snapshot-of-the-Banana-Trade.pdf.
- Myers, Gordon. 2004. *Banana Wars: The Price of Free Trade*. London: Zed Books.
- Olson, Mancur. 1965. *The Logic of Collective Action: Public Goods and the Theory of Groups*. Cambridge: Harvard University Press.
- Payne, Anthony. 2006. "The End of Green Gold? Comparative Development Options and Strategies in the Eastern Caribbean Banana Producing Islands." *Studies in Comparative International Development* 41(3): 25–46.
- Payne, Anthony. 2008. "After Bananas: The IMF and the Politics of Stabilisation and Diversification in Dominica." *Bulletin of Latin American Research* 27(3): 317–332.
- Pelc, Krzysztof J. 2009. "Seeking Escape: The Use of Escape Clauses in International Trade Agreements." *International Studies Quarterly* 53: 349–368.
- Pollack, M. 1997. "Representing Diffuse Interests in EC Policy-Making." *Journal of European Public Policy* 4(4): 572–90.
- Read, Robert. 2007. "The 'Banana Split': The EU–US Banana Trade Dispute and the Effects of EU Market Liberalisation." In *The WTO and the Regulation of International Trade*, ed. by Nicholas Perdakis and Robert Read. MA: Edward Elgar Publishing.
- Rosegrant, Susan. 1999. *Banana Wars: Challenges to the European Union's Banana Regime*. Cambridge, MA: Kennedy School of Government Case Study, Harvard University.
- Sands, David R. 1994. "Banana Trouble: Trade Rivalries Ripen as Chiquita Challenges European Banana Regime." *The Washington Times* (November 6): A13.

- Shaffer, Gregory C. 2003. *Defending Interests: Public-Private Partnerships in WTO Litigation*. Washington: Brookings Institution Press.
- Simmons, Beth and Andrew Guzman. 2005. "Power Plays and Capacity Restraints: the Selection of Defendants in WTO Disputes." *Journal of Legal Studies* 34(2): 557–98.
- Smith, MA. 2000. *American Business and Political Power: Political Opinion, Elections, and Democracy*. Chicago: University of Chicago Press.
- Stovall, John G. and Dale E. Hathaway. 2003. "US Interests in the Banana Trade Controversy." In *Banana Wars: The Anatomy of a Trade Dispute*, ed. by T.E. Josling and T.G. Taylor. New York: Oxford University Press.
- Sutton, Paul. 1997. "The Banana Regime of the European Union, the Caribbean, and Latin America." *Journal of Interamerican Studies and World Affairs*, 39(2): 5–36.
- United Nations Conference on Trade and Development (UNCTAD). 2009 (updated). "Banana Crop." <<http://www.unctad.org/infocomm/anglais/banana/crop.htm>>. (2010, January 16).
- United Nations Conference on Trade and Development (UNCTAD). 2009 (updated). "Banana Market." <<http://www.unctad.org/infocomm/anglais/banana/market.htm>>. (2010, January 16)
- Wilson, James Q. 1980. *The Politics of Regulation*. New York: Basic Books.
- World Trade Organization. 2009. "Lamy Hails Accord Ending Long Running Banana Dispute." 15 December. http://www.wto.org/english/news_e/pres09_e/pr591_e.htm
- World Trade Organization. 2012. "Chronological List of Dispute Cases." http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm
- Zangl, Bernhard. 2008. "Judicialization Matters! A Comparison of Dispute Settlement Under GATT and the WTO." *International Studies Quarterly* 52: 825–854.

