



AgEcon SEARCH
RESEARCH IN AGRICULTURAL & APPLIED ECONOMICS

The World's Largest Open Access Agricultural & Applied Economics Digital Library

This document is discoverable and free to researchers across the globe due to the work of AgEcon Search.

Help ensure our sustainability.

Give to AgEcon Search

AgEcon Search
<http://ageconsearch.umn.edu>
aesearch@umn.edu

*Papers downloaded from **AgEcon Search** may be used for non-commercial purposes and personal study only. No other use, including posting to another Internet site, is permitted without permission from the copyright owner (not AgEcon Search), or as allowed under the provisions of Fair Use, U.S. Copyright Act, Title 17 U.S.C.*

Agriculture and Trade Analysis Division
Economic Research Service
United States Department of Agriculture

Staff Report # AGES9314
1993

**The Environment, Government Policies, and International Trade: A
Proceedings**

Shane, M.D., and H. von Witzke, eds.

Proceedings of a Meeting of the
International Agricultural Trade Research Consortium
December, 1990, San Diego, CA

Chapter 2

A Constitutional Political Economy Perspective on International Trade

Viktor Vanberg*

Introduction

The purpose of this chapter is not to enter the longstanding debate on the economics of international trade, a debate that is concerned with the economic consequences of free trade compared with various forms of protection (Vousen, 1990). Nor do I intend to enter the growing discussion on the political economy of protection which looks at the political determinants of protectionist regimes and seeks to explain the latter in terms of an equilibrium between conflicting interests in a political market (Magee, Brock, and Young, 1989). Instead, taking as undisputed what seems to me to be the main thrust of the economics of international trade and of the political economy of protection, I want to approach some of the more fundamental issues of free trade and protection from a constitutional political economy viewpoint.

Constitutional political economy focuses on the systematic interdependence between what Hayek (1969) has called the order of rules and the order of actions (that is, the interdependence between the nature of the legal and institutional framework of socio-economic-political interactions) and the character of the order of actions or patterns of behavior that result from the respective framework. As its name suggests, constitutional political economy has much in common with political economy as commonly understood. They both extend economic analysis by applying it to the political environment within which ordinary

* Professor, Center for Study of Public Choice, Department of Economics, George Mason University, Fairfax, Virginia.

economic transactions take place. What makes constitutional political economy different from its better known counterpart is its special emphasis on the distinction between two levels of choice: Choices within rules (choices made within a given institutional framework) as opposed to choices among rules (choices that concern the institutional framework itself). Stated in yet another way, constitutional political economy starts from the systematic distinction between in-period choices and constitutional choices, and it directs its principal attention to the latter, the constitutional level of choice.

The analogy with ordinary games, though not perfectly fitting, is helpful in illustrating the basic concern of the constitutional perspective. In parlor games or games of sport, we can clearly distinguish between choices of strategies within an agreed set of rules and choices among rules. We engage in the latter when we change "the rules of the game," and we presumably do so with the intention to improve the game, where with "improve" we typically mean to make the flow of the game more attractive to the players or, in other words, to make its "order of actions" more desirable to the participants. Life in society is certainly in many regards dramatically different from a game. The interests that bring us together in real social life are much more varied and most often much more serious. And we typically cannot as easily enter and exit the social groups in which we participate, as we can with games. Even so, it is just as true for our "real" social life that we interact within rules of the game which shape the order of action that emerges among us for better or worse. The laws, rules, and customs that define the institutional constraints within which we act and interact generate an overall order of actions which we, the "players," may find more or less desirable. And just as with ordinary games, the principal means by which we can hope to give our socio-economic-political arrangements a more desirable character is to seek to improve the rules of the game.

What is a constitutional political economy of international trade about? For my purposes here, I want to interpret the notion of international trade in the broad sense in which it includes all across-border economic activities; that is, all activities that involve movements of goods and services, of capital, and of persons across national boundaries. Thus, the particular subject of a constitutional approach is the rules which pertain to such across-border activities, or, as I shall call them here, the

international rules.¹ In what follows, I will first identify the two main problems which may give rise to international rules: The problem of the enforcement of border-crossing contracts and the problem of protection. The next section will address in more detail the enforcement problem in international trade, followed by a discussion of the role of international rules in dealing with protection. The concluding section provides a brief discussion on the relation between free trade--as a general principle of free movement of goods, capital, and persons--and competition among governments.

Problems and Rules in International Trade

One of the most noticeable developments in the study of social rules and institutions is the increased use of game theoretical concepts, especially the prisoners' dilemma concept. The perspective of game theory helps to sharpen a notion that has always played a central role in institutional analysis, namely the idea that rules can be usefully looked at as "social tools" which serve to provide standard solutions to recurrent problems. Just as we have tools, in the ordinary sense, for solving problems that we face recurrently, such as a saw for cutting wood, we can think of social rules as devices that help us deal with recurrent problems in social interaction, like the rules of the road that allow for a smoother flow of traffic than would otherwise be possible.

If we look at international trade from such a perspective, two problems immediately come to mind that tend to create obstacles to the realization of potential gains from trade. The first problem has to do with the fact that economic exchanges often cannot be transacted strictly simultaneously, but require one party to move first and to give up a valuable resource before the other half of the transaction can be concluded. For such transactions to be carried out, and the gains that they promise to the potential traders to be realized, the party which is to move first has to have a sufficient reason to trust in the other party's compliance. In settings where the prospective traders are involved in continuous dealings and/or directly know each other, personal trust can provide such a reason. However, if personal trust were the only remedy for the problem, the extent of the market over which trade expands would

¹ The "constitutional approach" has much in common with the theoretical perspective of German Ordo-liberalism (Vanberg, 1988). For contributions from the latter perspective to the issue of the international economic order, see Gröner and Schüller (1989), Molsberger and Kotios (1990), and Oppermann and Conlan (1990).

be very limited, and so would, in Adam Smith's terms, the division of labor which is the source of the gains that can be realized through trade.

While technological advancements, for instance in transportation and communication, are relevant in expanding the size of markets, the most important step in this process is, as economic historians like Douglass North (1987, p. 421) argue, the "development of a third party to exchanges, namely government," which enforces contracts that extend beyond the narrow bounds defined by personal trust and continuous dealings. Yet, the effectiveness of government as enforcing agent finds its own limitations in the territorially defined boundaries of national jurisdictions. And the problem arises of how in the international realm a foundation can be provided for the kind of trust that is required for potential traders to be able to realize gains from trade transaction across jurisdictional borders. The second problem in border-crossing trade is, indeed, the major theme of international trade theory, namely the obstacles that arise from the various forms of protection with which national governments intervene in the trading process.

An often noted, seeming paradox in international trade is the striking contrast between the lessons of economic theory and observed political practice. On the one side is the theory of international trade which, basically since Adam Smith's arguments on the nature and causes of the wealth of nations, teaches that free trade is the best policy if the general welfare of a nation is to be promoted (Bhagwati, 1989, pp. 23ff.). On the other hand, protectionist policies are pervasively practiced and are the rule rather than the exception, throughout history and across the world. If one is not content with simply attributing such paradox to the irrationality of politics, the question arises as to how a systematic account may be provided from within the standard economic paradigm of rational, self-interested behavior.

Game theory suggests a prime candidate for such an account, namely the concept of the prisoners' dilemma. This concept is the paradigm case for situations where the separate, rational pursuit of individual interests generates an overall outcome which makes all participants worse off than they could have been; or, in the jargon of game theory, by choosing their individually rational dominant strategies, the players produce an outcome that is inferior to what would have resulted had they chosen their individually irrational dominated strategies. Explanations of the "protection paradox" in terms of the prisoners' dilemma (PD) concept have indeed been proposed, though they come in two critically different

versions, the one diagnosing the paradox as an international PD, the other tracing it back to an intranational PD.

The international version of the PD argument can be found, for instance, in *The Evolution of Cooperation* (1984). Axelrod cites the issue of trade barriers between two industrial nations as a "good example of the fundamental problem of cooperation," arguing that, even though the countries would be better off if there were no barriers, this does not bring about free trade because "whatever one country does, the other country is better off retaining its own trade barriers." This view is dubious for at least two reasons. The first is its implied assumption that free trade is advantageous only if generally practiced, but unilateral free trade would be self-damaging to a country. International trade theory teaches in essence (that is, except for certain special contingencies) the exact opposite. Though the gains from free trade are greater the larger the set of free traders, free trade enhances the welfare of a nation even if practiced unilaterally. Or, as Jan Tumlir (1983) put it: "It is, of course, the case that free trade would benefit even a single country, or a small group of them, in a generally protectionist world. But it is also true that the extent of the benefit to each depends on the number of countries participating in the system of such trade."

The second problem with the "international PD" theory of protectionism is its implied treatment of nations as unit actors which rationally pursue their interests, a perspective that is quite common in the "game theory of international politics."² Such a perspective can either be interpreted in a holistic way which would be blatantly inconsistent with the methodological individualism that is generally regarded as the paradigmatic trademark of economic theory. Or, it can be read as reflecting the assumption that governments generally act as benevolent and reliable maximizers of their nations' common good. Although the latter assumption has its tradition in welfare economics, the advent of public choice theory has dramatically reduced the number of economists who continue to consider it a useful device for the study of economic policy. Public choice theory has done so by pointing to, and systematically drawing conclusions from, the simple fact that governments are made up of individual persons who have their own interests, no less than ordinary economic actors, and that they pursue these interests within

² Snidal (1986) refers to this view as the "realist position" in the game theory of international politics, and he claims that "(t)his conception of nation-states as interdependent, goal-seeking actors lies at the heart of strategic game analysis."

the constraints that the institutional-constitutional framework imposes on them.

The modern political economy of protection can be understood as an application of public choice theory to the realm of trade politics. By systematically disaggregating the political process into the underlying interplay of particular interests, the theory is able to provide a quite straightforward explanation for the "paradox of protection" (Frey, 1984, pp. 20ff.; Weck-Hannemann, 1989, pp. 3ff.; Krueger, 1990). This theory can show that the principal obstacles to the realization of free trade lay at the intranational (rather than the international) level, namely in the differential benefits that government can provide to special interests by granting protection for particular industries or trades. The problem of protection is indeed diagnosed as a prisoners' dilemma, but as one that has its roots on the intranational level, rather than in conflicts of interests among nations. The problem of protection in international trade is critically different from problems such as environmental pollution which may justly be classified as international PD's (von Witzke and Livingston, 1990).

The theory of protectionism as an intranational prisoners' dilemma problem (Schuknecht, 1990) explains protectionist policies as a result of rent-seeking (Tollison, 1982). It states, in short, the following: Although, as traditional trade theory argues, free trade is the "best policy" for a country overall, any particular industry can benefit from being protected against foreign competition, and, therefore, has an incentive to seek to achieve such protection. While all would be better off if nobody were protected, to seek protection is the dominant choice for each industry acting separately. Being protected is preferable independently of what is true for the other industries: If nobody else is protected, one's own protection yields a differential advantage, and so it does if a few or all others are protected as well.

From a constitutional economics perspective, the argument can be restated in terms of the distinction between the constitutional and the inperiod level of choice: If we were made to choose between alternative institutional-constitutional regimes, a free-trade regime on the one side, and a regime characterized by pervasive protectionism on the other side, we would certainly prefer to live in the former because it would promise to be the wealthier society. Such choice at the level of regimes would reflect what one may call our constitutional preferences, our preferences over alternative constitutional rules, preferences that are informed by our

perception of the working properties of alternative constitutional systems (Vanberg and Buchanan, 1989). The prisoners' dilemma nature of the problem lies in the fact that our constitutional preference for a free-trade regime does by no means assure that, in the arena of ordinary politics, we would all have an incentive to refrain from protectionist lobbying. What requires us to draw a careful distinction here is the different nature of constitutional choices among regimes as opposed to strategic choices within regimes. Advocating free trade on the constitutional level, and seeking protection for one's particular trade on the subconstitutional level of inperiod politics is not inherently inconsistent. These are simply two different levels of choice, involving fundamentally different choice-alternatives: Alternative regimes in the one case, and alternative strategies within regimes in the other.

The recognition that, if required to choose to live either in a free-trade or a protectionist environment, we would rationally choose the former, does not, for the reasons explained, imply that we could be expected to voluntarily abstain from protectionist rent-seeking in ordinary politics. Nor does it imply that, within existing regimes, characterized by varying institutional mixtures of free trade and protection, we could easily agree to support general constitutional prohibitions of protection. The interests that drive protectionist rent-seeking in ordinary politics cannot be expected to mysteriously evaporate as we move up to the level of constitutional politics. The differences between particular industries with regard to their previous success in securing protection create vested interests which, despite the overall wealth increase that movements towards a free-trade constitution should promise, may still expect to be differentially advantaged by the status quo regime. Yet, though certainly driven by interests, the dynamics of constitutional politics is not just a mere duplication of the conflicts that characterize ordinary politics. For reasons amply discussed under such labels as "veil of uncertainty" or "veil of ignorance" (Vanberg and Buchanan, 1990), the prospects for agreement are enhanced as we move to the more generalized reflections that constitutional decisions on rules command. And for the free-trade issue, in particular, a fuller account of all the direct and indirect wealth effects of protectionist restrictions may show that a constitutional prohibition of protection is likely to promise net gains and, therefore, be agreeable even for the current "beneficiaries" of protectionist regimes, because they are both producers and consumers (Buchanan and Lee, 1991).

If there are indeed constitutional interests in free trade hidden behind, or buried by, protectionist policies, the question arises of how these constitutional interests may be effectively implemented. Before discussing

this question, I want to return to the problem of enforcing contracts that cut across jurisdictional boundaries.

Protective State and Trade Protection

North (1987) draws a useful distinction among three types of trade arrangements: personal exchange, impersonal exchange, and impersonal exchange with third-party enforcement. In personal exchange, the traders possess, because of repeat dealings or otherwise, "a great deal of personal knowledge about the attributes, characteristics, and features of each other" (p. 420). This situation makes for low transaction costs, but, because such conditions are confined to dense social networks, personal exchange sets rather narrow limits to the extent of the market and, therefore, to the potential for specialization and division of labor.

Going beyond the confines of personal exchange, and entering the "world of impersonal exchange" (North, 1987), means increasing potential for specialization and division of labor and, thus, significant gains in productivity or a significant decrease in production costs. But, transaction costs significantly increase because of the increased difficulties in enforcing the terms of exchange. The emergence of an enforcing third party, namely government, allows for the reduction in transaction costs that is required if the potential gains from impersonal exchange are to be fully realized (North, 1987).

North's notion of government as a third-party enforcer corresponds to what Buchanan (1975, pp. 68 ff.) has called the protective state, in distinction from the conceptually different "productive" state, the agency through which politically organized individuals provide themselves with "public goods." The protective state ideally operates as a strictly neutral and impartial enforcer of agreed-on rules and of contractual obligations voluntarily entered into by trading parties. The state's essential function is to provide and enforce an institutional framework which facilitates voluntary trade. In other words, the protective state's proper role is to remove obstacles to voluntary exchange, such as fraud and coercion. Yet, the development of government as an enforcing agent is a double-edged sword. With the concentration of power in the hand of the state comes the potential for this power to be used to impose and enforce rules which favor certain interest groups at the expense of others. Although the protective state plays an essential role in facilitating free trade, its coercive power can also be employed to inhibit free trade through

protectionist measures. In the state as protection-granting agent, we find again the principal subject of the political economy of protection and of the theory of rent-seeking more generally.

In the remainder of this section, I want to concentrate on the "pure" role of the protective state and, in particular, on the question of what the territorial confines of its jurisdictional domain imply for the problem of international trade. Put simply, the question is whether the fragmentation in national jurisdictions or, in short, the "territoriality of law" (Schmidtchen and Schmidt-Trenz, 1990), leaves obstacles to border-crossing trade, the effective removal of which would require an enforcing agent with transnational or supranational authority.

The international realm, the world of international relations, is often described as a state of anarchy, not unlike the "state of nature" in the Hobbesian sense (Oye, ed., 1986; Kratochwil, 1989, pp. 3 f.). If this characterization were adequate, one should expect that voluntary trade in the international arena would be subject to the same limitations that hamper cooperation in the Hobbesian arena. That is, we should expect that, in the terms of North's argument, any effective extension of trade beyond the confines of personal exchange would require the emergence of an enforcing agency on the international level to bring about the decrease in transaction costs that is needed for the potential gains from impersonal exchange to be realized. *Prima facie* evidence contradicts such reasoning. Though we have not witnessed the emergence of a world Leviathan, international trade has been successfully carried out through known history and its volume in today's world is obviously gigantic, covering the whole globe.

Coming up with an answer for why impersonal exchange is feasible in the international realm despite the absence of an international enforcing agency is not too difficult. Going back to the original issue of impersonal exchange, one can locate the essential problem in the difficulty for potential traders to make credible commitments—commitments which would assure their respective counterparts that they will indeed conclude their part of the deal. In personal exchange, such credibility derives from personal knowledge. In impersonal exchange, traders can make their commitments credible by mutually submitting to the dictum and enforcement of a third-party. Thus, as North argues, the development of government has an essential role in expanding the extent of the market and in providing for the gains from specialization and division of labor that come with it.

On a "first level," the development of government as third-party enforcer is apparently essential in providing a low-cost method for making credible commitments. Once national governments exist and we move into the realm of international impersonal exchange, the commitment problem takes on a critically different nature. On the national level, there is apparently no full-fledged substitute for government enforcement, although there have been effective "partial," nongovernment substitutes which have helped, through history, to facilitate impersonal trade, such as private commercial law, the so-called "law merchant" (Trakman, 1983; Benson, 1990). In the realm of international trade, however, a substitute for an international enforcement agency is available, namely the existing national governments. Traders can make credible commitments in international transactions if the enforcement systems in their respective home countries can be used by their foreign counterparts to enforce compliance with the terms of a contract.

The credibility that a national enforcement system provides to contractual commitments exchanged among domestic traders can easily and effectively be extended to international transactions by granting equal enforceability to contracts between domestic and foreign traders. This situation is what we observe and what allows for a rather smooth operation of international trade, although differences between different national legal systems introduce ambiguities which pose obstacles that are absent within national jurisdictions (Schmidtchen and Schmidt-Trenz, 1990). The reason why traders find it in their constitutional interest to have their domestic courts enforce foreign claims is clear. Traders who can back up their commitments by the enforcement power of their own domestic jurisdictions are more attractive trading-partners for foreigners, compared with those who cannot, and they will, therefore, encounter more and better opportunities for profitable exchange (Moser, 1990, pp. 13ff.; Vanberg and Buchanan, 1988, p. 152).

The above situation implies that the absence of an international enforcement agency need not pose a real obstacle to international trade. The credibility of commitments in international transactions can be effectively provided through national jurisdictions. The enforceability of international contracts is a direct function of the effectiveness and reliability of national jurisdictions, so that the international order may be said to be, a "reflection of national constitutional order" (Moser, 1990, p. 139; Tumlr, 1983, p. 80).

Antiprotection Commitments and Their Enforcement

Players who face a prisoners' dilemma type of situation can escape the dilemma if they can exchange credible commitments to not use their dominant "defection" strategy. Commitments are credible and effective to the extent that they introduce incentives which eliminate the dominance of the noncooperative choice. Commitments serve as constraints on behavior. They have the function of eliminating strategy-options from a player's choice set. And the prisoners' dilemma is the paradigm for a situation in which the exchange of commitments, the deliberate adoption of mutual constraints, restricting one's choice set, allows players to realize gains which otherwise would not be attainable.

I have argued above that the problem of protectionism is a prisoners' dilemma type problem, but intranational rather than international. Such diagnosis would suggest that commitments on the national rather than the international level would be required to solve the problem. If intranational rent-seeking, rather than conflicting interests on the international level, drives protectionist politics, the proper remedy would seemingly have to come from an exchange of commitments among intranational interest groups rather than from an exchange of commitments between nations. What we observe in reality seems to reflect the exact opposite: Free trade issues are typically the subject of international agreements, rather than of intranational constitutional politics.

Two questions arise in this context. First, why do we find the problem of protectionism to be a concern of international politics? Second, protection becomes a subject of international agreements; can such agreements provide effective solutions to this problem? Concerning the first question, one must remember that, although protectionism is essentially an intranational problem, a nation's economic wealth is still hurt other nations' protectionist policies. The protectionism of other countries does not change the fact that a nation's overall welfare is still better served by free trade rather than by a protectionist policy. The free-trade nation's gains from trade are clearly reduced compared with what they could be if the other countries were free traders too. Negative external effects derive from protectionist policies, and these negative effects create a mutual interest among nations in their respective trade policies. This fact alone could explain why we find protectionism to be a subject of international politics, yet the political economy of protection has added, as a further reason, the observation that, due to the dynamics

of intranational democratic politics, domestic support for free-trade commitments may be easier for politicians to secure if such commitments come in the form of a negotiated "exchange" with other governments rather than in the form of unilateral constitutional guarantees.

The second question, concerning the effectiveness of international agreements as a substitute for national constitutional prohibitions of protectionist policies, has a "yes, but" answer. Yes, international agreements could, in principle, serve the same purpose as national constitutional provisions. But, enforceability is a problem. There is no third-party enforcer to whom the contracting governments could turn to give credibility to their antiprotection commitments, and how sovereign nations should be able to create an appropriate international enforcement agency is far from clear. Such an enforcer should be powerful enough to force individual nations into compliance with agreed-on commitments and at the same time be safeguarded "against any abuse of that very substantial power" (Tumlir, 1983, p. 83). Although the recourse to the national level makes an international agency for the enforcement of privately negotiated trades dispensable, such an agency seems hardly workable for contracts among governments that would be required to act as their own guardians.

Free-trade commitments are apparently easier to achieve in the form of commitment-exchanges among governments than in the form of unilateral constitutional guarantees on the national level. And, in principle, such international commitments could serve as genuine substitutes for national constitutional provisions. The problem, however, is that their effective enforcement seems to require an international enforcement agency which does not exist and is unlikely to be created. With regard to the enforcement problem for international free-trade agreements, a proposal advanced by Jan Tumlir may promise a feasible solution, a solution which capitalizes on the fact that protectionism is ultimately a matter of intranational conflicts of interest. Tumlir's proposal (Hauser and others, 1988, pp. 226ff.; Moser, 1990, pp. 33ff.) is that internationally negotiated commitments among governments be translated or incorporated into the respective domestic legal-constitutional order in such a way that they create rights for individual citizens, enforceable in domestic courts, such as, the right to import certain goods without governmental interference. In Tumlir's (1983, p. 82) own words: "One can imagine the international economic policy commitments of a government to be undertaken in the form of self-executing or directly effective treaty provisions, creating

immediate private rights enforceable against one's own government These rights would be enforceable in national courts only, with no sacrifice of legal sovereignty."

Free Trade and Intergovernmental Competition

Protectionist measures prohibit voluntary transactions that otherwise would take place among domestic producers/consumers and foreign producers/consumers. Thus, free-trade commitments are, in the first instance, not concessions that governments make to each other. They are, instead, about the distribution of rights between governments and their citizens. They are constraints on the discretionary power with which governments can interfere in the economic activities of their citizens. They provide assurances to citizens that they can engage in economic transactions with foreigners free from politically imposed obstacles. "(I)nternational economic policy rules under which governments commit themselves to maintain freedom of and nondiscrimination in legitimate international transactions of their citizens represent important additional protection of private property rights -- 'the second line of national constitutional entrenchment'" (Tumlir, 1983, p. 83).³

Free trade in the general sense of free movement of goods and services, capital and persons, is a principle that is not only important with regard to economic efficiency as traditionally understood. Free trade is an essential device through which individuals can secure their rights from government encroachment, a device through which they can effectively control governmental powers. The rights of participation in collective political decisionmaking that liberal democracies provide for their citizens are, without any doubt, extremely important in keeping governments responsive to the interests of those whom they govern, as a comparison of alternative forms of government clearly reveals. Yet, public choice theory has made us aware of the limits of democratic collective choice mechanisms in large constituencies as to their capacity to establish a sensitive link between citizens' interests and governmental policies (Vanberg and Buchanan, 1990). These limits characterize the operation of ordinary politics, and they characterize in no lesser way the realm of constitutional politics.

³ Tumlir (1983) continues: "This reasoning leads to the conclusion that national courts, rather than diplomacy, can and should provide the necessary authoritative interpretation of the international commitments governments undertake in matters of economic policy."

With regard to constitution politics, the principle of free trade can considerably strengthen the power of control that citizens, as individuals, are able to exercise over their governments. While in their capacity as voter-citizens, they can codetermine the choice among constitutional regimes, with their vote rapidly becoming insignificant as the size of the constituency increases. Individuals are free to move with their economic activities, investments, and human capital between locations that allows them to choose individually and separately among alternative constitutional regimes. In this sense, free trade introduces an important element of competition into relations among governments. If individuals are free to move with their resources between different jurisdictions, governments must compete for these resources, in much the same way in which firms must compete for the funds of consumers, the financial contributions of investors, and the input of potential employees.

Such competition can help to establish, in the political realm, a responsiveness of governments to citizens' interests, which is similar to the responsiveness that market competition induces in the relation between producers and consumers, an observation which Tiebout summarized as follows: "Spatial mobility provides the local public-goods counterpart to the private market's shopping trip" (1956, p. 23). The right and the capacity of individuals to move resources between jurisdictions impose effective constraints on governments (Hirschman, 1981, 253ff.) and have, for obvious reasons, been important themes in contributions on federalism in general (Hayek, 1948, pp. 258, 260) and on fiscal federalism in particular (Brennan and Buchanan, 1980, 168ff.; Wiseman, 1990, p. 122). This theme has been further discussed by Breton (1987, pp. 268ff.) and others (Wildavsky, 1990, 43ff.; Dye, 1990, p. 71) in writings on federalism as intergovernmental competition.⁴

These arguments on the role of free trade in securing the responsiveness of governments do not imply that no circumstances were conceivable under which citizens, in pursuit of their constitutional interests, could agree on jointly submitting to certain limitations on the mobility of goods, capital, and persons (Kindleberger, 1986, pp. 3ff.). What is implied, however, is that the effects that such limitations have on the power of control that citizens can exercise over their governments should be properly considered.

⁴ Sinn (1989, 1990) discusses "competition among governments" as an effect of the international mobility of capital.

References

- Axelrod, Robert. (1984) *The Evolution of Cooperation*. New York: Basic Books.
- Benson, Bruce L. (1990) *The Enterprise of Law: Justice Without the State*. San Francisco: Pacific Research Institute for Public Policy.
- Bhagwati, Jagdish. (1989) *Protectionism*. Cambridge, MA: The MIT Press.
- Brennan, Geoffrey, and James M. Buchanan. (1980) *The Power to Tax: Analytical Foundations of a Fiscal Constitution*. Cambridge, U.K.: Cambridge University Press.
- Breton, Albert. (1987) "Towards a Theory of Competitive Federalism," *European Journal of Political Economy*, 3: 263-329.
- Buchanan, James M. (1975) *The Limits of Liberty: Between Anarchy and Leviathan*. Chicago: The University of Chicago Press.
- Buchanan, James M., and Dwight R. Lee. (1991) "Cartels, Coalitions, and Constitutional Politics," *Constitutional Political Economy*, 2 (1), forthcoming.
- Dye, Thomas R. (1990) "The Policy Consequences of Intergovernmental Competition," *Cato Journal*, 10: 59-73.
- Frey, Bruno. (1984) *International Political Economy*. Oxford U.K.: Basil Blackwell.
- Gröner, Helmut, and Alfred Schüller. (1989) "Grundlagen der internationalen Ordnung: GATT, IWF und EG im Wandel - Euckens Idee der Wirtschaftsverfassung des Wettbewerbs als Prüfstein," *Ordo*, 40: 429-63.
- Hauser, Heinz, Peter Moser, Renaud Planta, and Ruedi Schmid. (1988) "Der Beitrag von Jan Tumlir zur Entwicklung einer ökonomischen Verfassungstheorie internationaler Handelsregeln," *Ordo*, 39: 219-37.

Hayek, Friedrich A. (1948) "The Economic Conditions of Interstate Federalism," *Individualism and Economic Order*. Chicago: University of Chicago Press: 255-272.

Hayek, Friedrich A. (1969) "Rechtsordnung und Handelsordnung," *Freiburger Studien: Gesammelte Aufsätze*. Paul Siebeck (ed.). Tübingen, Germany: J.C.B. Mohr: 161-98.

Hirschman, Albert O. (1981) "Exit, Voice, and the State," *Essays in Trespassing: Economics to Politics and Beyond*. Cambridge, U.K.: Cambridge University Press: 246-265.

Kindleberger, Charles P. (1986) "International Public Goods Without International Government," *American Economic Review*, 76: 1-13.

Kratochwil, Friedrich V. (1989) *Rules, Norms, and Decisions: On the Conditions of Practical and Legal Reasoning in International Relations and Domestic Affairs*. Cambridge, U.K.: Cambridge University Press.

Krueger, Anne O. (1990) "Asymmetries in Policy between Exportables and Import-competing Goods," *The Political Economy of International Trade*. Ronald W. Jones and Anne O. Krueger (eds.). Cambridge, MA: Basil Blackwell: 161-178.

Magee, Stephen P., William A. Brock, and Leslie Young. (1989) *Black Hole Tariffs and Endogenous Policy Theory: Political Economy in General Equilibrium*. Cambridge, U.K.: Cambridge University Press.

Molsberger, Josef, and Angelos Kotios. (1990) "Ordnungspolitische Defizite des GATT," *Ordo*, 41: 273-295.

Moser, Peter. (1990) *The Political Economy of the GATT: With Applications to U.S. Trade Policy*. Grüşch, Switzerland: Verlag Rüegger (Schweizerisches Institut für Außenwirtschafts-, Struktur- und Regionalforschung an der Hochschule St. Gallen, Band 22).

North, Douglass C. (1987) "Institutions, Transaction Costs and Economic Growth," *Economic Inquiry*, 25: 419-28.

Oppermann, Thomas, and Patricia Conlan. (1990) "'Principles': Legal Basis of Today's International Economic Order?" *Ordo*, 41: 297-313.

Oye, Kenneth A. (ed.). (1986) *Cooperation under Anarchy*. Princeton, NJ: Princeton University Press.

Schmidtchen, Dieter, and Hans-Jörg Schmidt-Trenz. (1990) "The Division of Labor Is Limited by the Extent of the Law: A Constitutional Approach to International Private Law," *Constitutional Political Economy*, 1 (3): 49-71.

Schuknecht, Ludger. (1990) "Protectionism: An Intra-National Prisoners' Dilemma," *Aussenwirtschaft*, 45 (1).

Sinn, Stefan. (1989) *Economic Models of Policy-Making in Interdependent Economies: An Alternative View on Competition Among Policies*. Kiel, Germany: The Kiel Institute of World Economics.

Sinn, Stefan. (1990) "The Taming of Leviathan: Competition among Governments." Kiel, Germany: The Kiel Institute of World Economics.

Snidal, Duncan. (1986) "The Game Theory of International Politics," *Cooperation Under Anarchy*. K.A.Oye (ed.). Princeton, NJ.: Princeton University Press: 25-57.

Tiebout, Charles M. (1956) "A Pure Theory of Local Expenditures," *Journal of Political Economy*, 64: 416-424.

Tollison, Robert D. (1982) "Rent Seeking: A Survey," *Kyklos*, 35: 575-602.

Trakman, Leon. (1983) *The Law Merchant and the Evolution of Commercial Law*. CO.: Fred B. Rothman.

Tumlir, Jan. (1983) "International Economic Order and Democratic Constitutionalism," *Ordo*, 34: 71-83.

Vanberg, Viktor. (1988) "'Ordnungstheorie' as Constitutional Economics: The German Conception of a 'Social Market Economy,'" *Ordo*, 39: 17-31.

Vanberg, Viktor, and James M. Buchanan. (1988) "Rational Choice and Moral Order," *Analyse & Kritik*, 10: 138-160.

Vanberg, Viktor, and James M. Buchanan. (1989) "Interests and Theories in Constitutional Choice," *Journal of Theoretical Politics*, 1: 49-62.

Vanberg, Viktor, and James M. Buchanan. (1990) "Constitutional Choice, Rational Ignorance and the Limits of Reason." Fairfax, VA.: Center for Study of Public Choice.

Von Witzke, Harald, and Marie L. Livingston. (1990) "Public Choice in International Pollution." University of Minnesota, Department of Agricultural and Applied Economics.

Vousen, Neil. (1990) *The Economics of Trade Protection*. Cambridge, U.K.: Cambridge University Press.

Weck-Hannemann, Hannelore. (1989) "Protectionism in Direct Democracy: An Empirical Assessment," University of Konstanz, Germany: Faculty of Economics and Statistics.

Wildavsky, Aaron. (1990) "A Double Security: Federalism as Competition," *Cato Journal*, 10: 39-58.

Wiseman, Jack. (1990) "Principles of Political Economy: An Outline Proposal, Illustrated by Application to Fiscal Federalism," *Constitutional Political Economy*, 1 (1): 101-124.