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‘Hidden’ British Protectionism: The Merchandise Marks Act 1887

Oliver Harvey

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Abstract

The merits of Britain's trade policy in the late nineteenth century have been long debated. Williamson and O'Rourke found a positive correlation between tariffs and growth across countries in the period, suggesting that free trade harmed the British economy. By contrast, Crafts and Broadberry disagree with the idea that the late Victorian slowdown in British productivity can be ascribed to weak exports, and instead highlight the benefits of openness to Britain's services sector. This dissertation will aim to contribute to this debate by examining a little studied example of British soft protectionism. In 1887, Britain sought to protect manufacturers from competition in home and foreign markets by passing the Merchandise Marks Act. This required that a large share of imports had to be marked with an indication of their country of origin. It was hoped the Act would protect the reputation of British products, curtail unfair foreign trade practices, and encourage consumers to buy British products. While the Act was not a tariff, it generated controversies that echo those today over geographical indicators (GIs) and can be seen as an early form of non-tariff barrier.

The second part of the dissertation addresses whether the Act affected British trade. I do not find evidence the Act was able to halt the advance of German manufacturing exports to Britain. But there is strong evidence that it damaged Britain's entrepot trade and enhanced trade between commercial rivals and colonial markets. This supports Broadberry and Craft's assertion that economic openness benefitted the British economy.

Introduction

Should Britain have persisted with free trade in the late nineteenth century as commercial rivals adopted protectionism? The question has sparked debate from the period in question to the present. This dissertation examines a little studied example of British soft protectionism, the 1887 Merchandise Marks Act, to shed light on the issue. I argue that there is no evidence the Act stemmed foreign import penetration. The Act did hurt Britain's entrepot trade, resulting in damage to the mercantile and shipping industries. This supports the view that openness was beneficial to the British economy.

Previous literature

There is an extensive literature about the forces that shaped British trade policy in the late nineteenth century. One debate has focused on why Britain persisted with free trade while other countries adopted protectionism to varying degrees. Standard trade theory suggests that although there are aggregate welfare gains from free trade, there are also distributional consequences. In Williamson's influential view, the adoption of protectionist policies in the late nineteenth century was determined by the political bargaining power of winners and losers from free trade. Consistent with a Heckscher-Ohlin model, globalising forces caused convergence in factor prices, hurting landed interests, and helping labour, in European countries with high land rent/wage ratios and vice versa in the New World. Britain's rural sector was smaller than that of France's or Germany's, however, meaning that agricultural interests that suffered from a New World 'grain invasion' were politically marginalised relative to exporters and urban workers that benefitted from free trade.¹

Building on this economic framework, other historians have emphasised the importance of political institutions in determining the outcome of the British debate over free trade. Eichengreen has suggested the failure of the fair trade movement was due to a lack of political cooperation between disparate protectionist interests as well as the extension of the franchise in 1867 and 1884 that diluted the power of landowners relative to the working classes.² In a similar way, Irwin argued that British maintenance of free trade after the Liberal victory at the 1906 election was due to a greater voice for the working class and manufacturing interests who benefitted from free trade. According to him, the franchise reduced the organizational costs of involvement in the debate, allowing voters to overcome collective action problems that typically faced advocates for free trade.³

¹ Williamson, J. G. "Globalisation, Labour Markets and Policy Backlash in the Past," *Journal of Economic Perspectives*, Volume 12, Number 4, (Autumn, 1998), p.66

² Eichengreen, B. "The Eternal Fiscal Question: Free Trade and Protection in Britain, 1860-1929," University of California Working Paper No.91-171, (July 1991), p.11

³ Irwin, D. "The Political Economy of Free Trade: Voting in the British General Election of 1906," *The Journal of Law and Economics*, Volume 37, Number 1, (April 1994)

More recent work has stressed some of the limitations of the Heckscher-Ohlin model in explaining both the development of British trade and political motivations. O'Rourke argues that static trade theory is ambiguous about whether a country with a monopoly in industrial products, such as late nineteenth century Britain, will benefit from free trade. As it turned out, O'Rourke points out, Britain felt competition in manufacturing from protectionist rivals more acutely than in agriculture.⁴ Others have shown that models of monopolistic competition are more applicable to late Victorian trade than models based on comparative advantage. For example, John Brown shows how the German cotton industry was able to make major inroads into Britain's market share despite relatively high labour costs and no obvious technological advantage, highlighting the importance of better German marketing and commercial awareness.⁵ If manufacturing interests were threatened by free trade this, in turn, would undermine the idea that the strength of protectionism in late nineteenth century Britain can be boiled down to the factor prices of land and labour.

A second, related, debate has focused on the merits of free trade for the British economy. At a cross country level, O'Rourke found a positive correlation between tariffs and growth in the late nineteenth century. He identifies a higher savings rate as a result of the increase in the prices of final goods relative to capital goods, the protection of infant industry and the encouragement of a shift from agriculture into industry as possible explanations for a positive effect of protectionism on growth.⁶ Could Britain's retention of free trade therefore have hurt its growth? While there is debate as to exactly when British productivity fell behind industrial rivals such as Germany, it is clear that by the early 20th century Britain's competitive advantage in manufacturing had been substantially eroded.⁷ In the steel industry, Webb argues that German productivity gains owed to a combined

⁴ O'Rourke, K. "British trade policy in the 19th century: a review article," *European Journal of Political Economy*, Volume 16, (2000), p.835

⁵ Brown, J. C. "Imperfect Competition and Anglo-German Trade Rivalry: Markets for Cotton Textiles before 1914," *The Journal of Economic History*, Volume 55, Number 3, (September 1995)

⁶ O'Rourke, K. "Tariffs and Growth in the Late 19th Century," *The Economic Journal*, Volume 110, Issue 463, (April 2000)

⁷ Ritschl, A. "The Anglo-German Industrial Productivity Puzzle, 1895-1935: A Restatement and Possible Resolution," *The Journal of Economic History*, Vol. 68, No. 2, (June 2008)

cartel-tariff system that encouraged vertical integration and reduced the risk of capital investments.⁸ Feinstein argued that the closing of US and European markets through tariffs more than offset the beneficial impact of higher foreign incomes for British exports, although concluded there was little Britain could do about tariffs.⁹ More recently, Varian finds that US bilateral tariffs were a significant determinant of trade costs between Britain and the United States during the period.¹⁰ By contrast, Broadberry and Crafts disagree with the idea that economic openness held back the British economy. They suggest that ongoing British openness had a positive impact on productivity as resources shifted out of low productivity agriculture while Britain's high productivity services sector, represented by industries such as finance and transport, benefitted.¹¹ In a recent article, Crafts revisited McCloskey's famous 1970 article on whether the Late Victorian economy failed, concluding that trade competition from Germany played only a small part in Britain's productivity 'climacteric'.¹²

A third and related debate is the importance of trade policies in international trade. Research on the effects of trade policy has seen renewed interest over the last few years in the context of both the UK's exit from the European Union and the 2018-19 US trade war with China. This comes after a period in which their study had become somewhat marginalised in economic literature. According to Goldberg and Pavcnik, this marginalisation was due to increasing academic focus on broader measures of trade costs such as transport and distance as well as measurement issues. The authors note the inherent difficulty in measuring non-tariff barriers, which became relatively more important as tariffs became less

⁸ Webb, S. "Tariffs, Cartels, Technology, and Growth in the German Steel Industry, 1879-1914," *The Journal of Economic History*, Volume 40, Number 2, (June 1980)

⁹ Feinstein, C., 'British exports and economic growth (1850-1914)', in *International trade and British economic growth from the eighteenth century to the present day*, eds. P. Mathias and J. A. Davis, (Oxford, 1996)

¹⁰ Varian, B. "The Course and Character of Late Victorian Exports," LSE e-thesis, (London 2017), last accessed 17th July 2021, [weblink](#), pp.51-80

¹¹ Crafts, N. and Broadberry, C. "Openness, protectionism and Britain's productivity performance over the long-run" *CAGE Online Working Paper Series*, Number 36, (2010)

¹² Crafts, N. "British Relative Economic Decline in the Aftermath of German Unification," Warwick Economics Research Papers Series, No.1295, (July 2020), McCloskey, D. "Did Victorian Britain Fail?" *The Economic History Review*, Volume 23, Number 3, (December 1970)

prevalent in the late 20th century.¹³ In the field of economic history, an example of this renewed interest is provided by Bromhead et al, who assess the impact of British protectionism on inter-war trade volumes using disaggregated import data. While the authors conclude that global demand was the primary cause of falling trade volumes, protectionist policies explain a considerable degree of the reshaping of geographical trading relationships in the inter-war period.¹⁴

In the context of these debates, there has been surprisingly little recent attention paid to the 1887 Merchandise Marks Act (often referred to henceforth as the Act), a piece of British legislation that generated major controversy during the 1880s and 1890s. The Act for the first time compelled foreign manufacturers to place indications of geographical origin on their exports to Britain and gave customs authorities the power to seize goods bearing misleading indications of origin. While two historians have characterised it as one of the ‘few accomplishments’ of the fair trade movement during the period,¹⁵ there have been no detailed academic assessments of the legislation since Hoffman’s 1933 book, “Great Britain and the German Trade Rivalry, 1875-1914,” in which it was given prominent place.¹⁶ Hoffman saw the Act as a form of protectionism in response to German trade competition but argues, in line with some nineteenth century views, that it backfired by opening the eyes of both domestic and colonial consumers to the quality of German manufactures.¹⁷ The omission of the Act from the literature on British trade policy is all the more striking as it was passed in the year of peak agitation for a reform of Britain’s free trade policy in the late nineteenth century.¹⁸

¹³ Goldberg, P. and Pavcnik, N. “The Effects of Trade Policy,” NBER Working Paper 21957, (February 2016)

¹⁴ De Bromhead, A., Fernihough, A., Lampe, M., O’Rourke, K. “When Britain Turned Inward: The Impact of Interwar British Protection,” *American Economic Review*, Volume 109, No. 2, (February 2019)

¹⁵ For a non-academic study, see Stusowski, D. “A Manufacturing War Between the UK and Germany in the 19th Century Set the Stage For Today’s Trade Crisis,” *History Collection*, June 5th 2017, last accessed 28th June 2021, [weblink](#). The two historians are Neuburger, H. and Stokes, H., “The Anglo German Trade Rivalry, 1887 – 1913: A Counterfactual Outcome and Its Implications,” *Social Science History*, Volume 3, Number 2, (Winter, 1979) p.188.

¹⁶ Hoffman, R. *Great Britain and the German Trade Rivalry, 1875-1914* (Routledge, New York, 2021), p.45-50

¹⁷ *Ibid*, p.45-50

¹⁸ Zebel, S. “Fair Trade: An English Reaction to the Breakdown of the Cobden Treaty System,” *The Journal of Modern History*, Vol. 12, No. 2, (June 1940), p.117

Complaints about the Act became particularly acute during the 1890s and were most famously articulated by Ernest Edwin Williams's 'Made in Germany,' a polemical tract in support of fair trade. The book highlighted how German manufactures had gained market share at the expense of Britain in both foreign and domestic markets due to the free advertising provided by the legislation, as German exporters adorned products with the 'Made in Germany' sign. This is brought to life vividly by Williams's description of the increasing prevalence of German trademarks in British domestic life:

"Roam the house over, and the fateful mark will greet you at every turn, from the piano in your drawing-room to the mug on your kitchen dresser..."¹⁹

The Merchandise Marks Act also generated controversy abroad. Hoffman highlights how the German Chancellor Gustav Stresemann looked back at it as representing the starting point of deteriorating political relations between Britain and Germany in the run-up to World War One.²⁰ British newspapers of the time frequently reported German complaints about the unfair slandering of their trade practices in commercial journals, and after the Act came into force, German and Austrian manufacturers complained about the discriminatory nature of the legislation on their exports.²¹

Recent academic literature on the 1887 Merchandise Marks Act has been associated primarily with business history and the development of trademarks, brands, and intellectual property rights, rather than trade policy. Higgins has discussed the Act in the context of the development of trademarks and intellectual property law.²² Lopez Silva similarly explores the changing ways in which British

¹⁹ Williams, EE., *Made in Germany*, Heinemann (London, 1896), p.10

²⁰ Hoffman, R. *Great Britain and the German Trade Rivalry, 1875-1914* (Routledge, New York, 2021), p.274

²¹ *The Times*, October 3rd, 1887, p.3 *The Economist*, February 25th, 1888, p.254 *The Economist*, July 6th, 1889, p.869

²² Higgins, D. "Firms and Indications of Geographical Origin in the First Global Economy," in *Brands, Geographical Origin and the Global Economy*, Cambridge University Press, (Cambridge, 2018) and Higgins, D. and Tweedale, G. "Asset or Liability? Trade Marks in the Sheffield Cutlery and Tool Trades," *Business History*, Volume 37, Number 3, (1995)

companies sought to protect their brands from foreign imitations in the late nineteenth century, of which litigation using legislation like the Merchandise Marks Act was one.²³

The relative lack of attention to the Act when it comes to debates over British free trade is likely because it does not fit neatly into the literature on late nineteenth century policy measures. As I show below, it was partly motivated by concerns about German encroachment into British manufacturing, but it was not a tariff and might best be described as a non-tariff barrier. Other forms of British soft protectionism have recently been obtaining more scholarly attention, however. The term soft protectionism is used in this dissertation to mean non-traditional forms of trade distorting measures rather than tariffs or quotas. These non-traditional forms can include non-tariff barriers, domestic subsidies, or regulatory measures.²⁴ For example, Higgins has treated the 1926 Merchandise Marks Act, which succeeded the 1887 Act by tightening up requirements on the compulsory marking of foreign goods, as a form of soft protectionism and notes that the Balfour Committee acknowledged it as such.²⁵ Relatedly, as the 1926 Act was designed in part to facilitate imperial preference, Varian and Higgins discuss how from 1926-33 the Empire Marketing Board tried, unsuccessfully, to appeal to consumers' patriotic instincts to increase British purchases of Commonwealth goods.²⁶ Lopez da Silva has also investigated the importance of the 1875 Trade Mark Registration Act as a reason for British dominance in consumer goods exports in the late nineteenth century.²⁷ This dissertation will seek to add to this burgeoning

²³ Silva Lopes, T. and Casson, M. "Brand Protection and the Globalisation of British Business," *The Business History Review*, Vol. 86, No. 2, (2012)

²⁴ Thrasher, R. and Gallagher, K "Defending Development Sovereignty: The Case For Industrial Policy and Financial Regulation in the Trading Regime," in *Rethinking Development Strategies after the Financial Crisis, Volume 1: Making the Case for Policy Space*, eds. Calcagno, A., Dullien, S., Márquez-Velázquez, A., Maystre, N., Priewe, J., UNCTAD (New York, 2015) pp.93-105

²⁵ Higgins, D. "Unfair Competition and the Merchandise Marks Act, 1926," in *Brands, Geographical Origin and the Global Economy*, Cambridge University Press, (Cambridge, 2018), p. 125

²⁶ Varian, B. and Higgins, D. "Money Talks – Give Yours an Empire Accent: The Economic Failure of Britain's Empire Marketing Board, 1926-33," Paper Presented at Economic History Society's 2019 Conference

²⁷ Da Silva Lopez, T., Guimaraes, P. "Trademarks and British dominance in consumer goods, 1876-1914," *The Economic History Review*, Volume 67, Number 3, (August 2014)

literature by examining the 1887 Merchandise Marks Act in the context of the broader debate about late Victorian British trade policy.

Research Questions

This dissertation will seek to answer two distinct, but related, questions.

First, was the Merchandise Marks Act of 1887 a form of British soft protectionism?

Second, what was its effect on British trade?

Methodology and Sources

This dissertation will use both qualitative and quantitative sources. To answer whether the Act can be seen as a form of soft protectionism, I will first describe the historical background to, and workings of it. I will then set out how geographical indications of origin are treated by economic theory, focusing on the debate between those that see them as a form of protectionism, and those that see them as improving consumer information and market efficiency. Using this framework, I will then situate the Act using contemporary sources, specifically: The Parliamentary Select Committee reports of 1887 and 1890 that were established to design, and then assess the working of the legislation respectively, the *Report of the Royal Commission on Trade and Industry* (1886), contemporary newspaper reports from the *Economist*, *Times*, *Financial Times*, *Daily Telegraph*, *Sheffield and Rotherham Independent*, parliamentary debates, booklets from the Cobden Club and Conservative and Unionist Party and the Royal Society of Arts. To answer the second question, a quantitative approach is necessary. I first examine British imports by product category at a monthly frequency between 1885-1890, which I digitized from *The Economist's Monthly Trade Supplement* collecting 576 observations. I use a simple univariate time series model to test for a short-term disruption on British imports.

I then assess the longer run impact of the Act on British trade. To examine the impact on British imports, I digitize annual British imports from major trading

partners at an aggregate and commodity level in the decade preceding and following the Act, collecting 1,549 observations. I use a panel model to assess the impact on imports from countries that were particularly affected by the Act – Germany and Belgium – after controlling for prices and other factors that influence trade.

Finally, I assess the claims of merchants and shippers that the Act had a negative impact on Britain’s entrepot trade – shipping of non-British goods to third markets – and encouraged direct trading links between foreign nations and Britain’s colonies. To do so, I focus on Indian trade. I digitize annual data on Indian imports by commodity and country in the years surrounding the Act from the *Annual Statement of the Trade and Navigation of British India with Foreign Countries* collecting 1,683 observations. Using a similar panel model, I explore whether the introduction of the Merchandise Marks Act had an impact on Indian imports, after controlling for prices and other variables.

Background to and Design of the Merchandise Marks Act 1887

Background to the Act

Calls to protect British manufacturers from foreign firms fraudulently marking goods date back to the 1850s.²⁸ Early on, Germans were seen as the main culprits. In an influential paper presented to the Royal Society of Arts, the academic Leone Levi highlighted that German companies profited by using British marks to sell inferior goods at a higher price, producing ‘loss of reputation and loss of trade to the British manufacturer.’²⁹ Complaints about the fraudulent marking of non-British as British goods cropped up in subsequent years. For example, a Select Committee chaired by the Liberal MP Sir Henry Jackson in 1879 heard evidence of foreign made watches being sold as British through the use of British hallmarks. The Select Committee recommended tightening the legislation around

²⁸ Bently, L. “The making of modern trade mark law: the construction of the legal concept of trade mark (1860-1880),” in *Trade Marks and Brands, An Interdisciplinary Critique*, eds. Bently, L., Davis, J., Ginsburg, J. (Cambridge University Press, Cambridge, March 2011), p.5

²⁹ *Journal of the Royal Society of Arts*, March 18th 1859, p.266

trademarks.³⁰ But it was not until the 1880s that impetus for legislation to protect British manufacturers from unfair foreign trade practices gathered steam.

The impetus was provided by two main developments. The first was a slump in British export growth that had begun in the mid-1870s and would go on to be described as part of late Victorian Britain's 'productivity climacteric.'³¹ By 1885, the perceived decline in British trade had become sufficiently acute for the Salisbury government to establish the Royal Commission on the Depression in Trade and Industry. In its report, released in 1886, the practice of German goods masquerading as British ones was seen as so detrimental that it was highlighted as one of the subsidiary causes of the depression, particularly affecting the hardware industries of Sheffield and Birmingham. It was the only cause of the depression identified in the Report that was coupled with a recommendation for legislation. The Report suggested a strengthening of existing laws on trademark protection and that the United Kingdom enter into negotiations with foreign countries to obtain similar protection for British manufactures abroad.³²

The second development was an international effort to establish common ground for intellectual property rights and trademarks. British trademark law began to be formulated in earnest from the 1860s onwards, starting with the 1862 Merchandise Marks Act and culminating in the 1875 Trade Mark Registration Act.³³ Growth in international trade in the second half of the nineteenth century made brands increasingly valuable as industry developed strategies to overcome information asymmetries across a more globalised marketplace.³⁴ In tandem, this

³⁰ *Special Report from the Select Committee on Merchandise Marks Act (1862) Amendment Bill*, Henry Hansard, June 1887, p.10

³¹ Arthur Lewis lays the blame for Britain's productivity climacteric primarily at the fall in foreign trade, arguing that it diminished investment and thus productivity and was a consistent feature of the British economy from 1873-1913. Lewis, A. "The Deceleration of British Growth, 1873-1913," Development Research Project, Woodrow Wilson School, November 1967, p.53

³² *Final Report of the Royal Commission Appointed to Enquire Into the Depression of Trade and Industry*, Eyre and Spottiswoode, London, (1896) p. xxv

³³ Bently, L. "The making of modern trade mark law: the construction of the legal concept of trade mark (1860-1880)," in *Trade Marks and Brands, An Interdisciplinary Critique*, ed. Bently, L., Davis, J., Ginsburg, J. (Cambridge University Press, Cambridge, March 2011)

³⁴ Higgins, D. "Firms and Indications of Geographical Origin in the First Global Economy," in *Brands, Geographical Origin and the Global Economy*, 2018 (Cambridge, 2018), p.32

period saw an increasing proliferation of misleading trademarks. Pressure to do something to discourage false advertising resulted in the 1883 Paris Convention of the Industrial Property Union, with eleven signatories including Great Britain. This was followed by its revision in Rome in 1886. Much of the agreement was focused on the protection of patents and intellectual property, but clauses nine and ten of the Convention concerned the fraudulent marking of goods. These established the right of the signatories to seize goods at the border that advertised misleading information, where this was associated with the false representation of a trademark.³⁵

In Great Britain, the 1883 Convention was not enforced by any new legislation concerning the false advertising of goods. In fact, it was perceived that the Convention did not go far enough when it came to preventing false marking. Shipments could only be seized where it could be established that they infringed an established trademark. The driving force behind tougher legislation was the Sheffield Cutlers Company, who represented the Sheffield steel and cutlery industry and had complained for years about inferior German made products misleadingly marked as having been made in Sheffield.³⁶ In 1883, a complaint made to the Board of Trade by the Company generated wider public awareness: the cause was taken up by the *Daily Telegraph*, and further controversy was generated by the *Sheffield Independent* alleging in February 1886 that unscrupulous merchants frequently passed off substandard German cutlery as of Sheffield make.³⁷ In February 1887, deputies from the Cutlers Company petitioned the Board of Trade for legislation and were joined by Liberal MP for the Sheffield constituency of Brightside, A. J. Mundella.³⁸ The previous year, the Cutlers had accompanied a British delegation to Rome in 1886 to push for an amendment to the Paris Convention to make any false indication of origin an

³⁵ *Special Report from the Select Committee on Merchandise Marks Act (1862) Amendment Bill*, Henry Hansard, June 1887, p.1

³⁶ Higgins, D. "Trade Marks and the Defence of 'Sheffield,'" in *Mesters to Masters, A History of the Company of Cutlers in Hallamshire*, eds. Binfield, C., and Hey, D., Oxford University Press, (Oxford, 1997), p.88

³⁷ "The Treason of Sheffield Traders," *Sheffield and Rotherham Independent*, February 13th, 1886, p.6

³⁸ *Daily Telegraph*, February 14th, 1887, p.3

offence, although this was not ratified by the delegates. Finally, in spring 1887 a Select Committee met to examine legislation drafted by the Board of Trade. The Cutler's company had played a major role in advising the Board of Trade on the drafting of the legislation.³⁹ In July, the legislation was passed.

The Design and Implementation of the Act

The key clause of the 1887 Act was to make the application of a false trade description to goods, or the sale of falsely described goods, punishable through a substantial fine or up to two years hard labour. The Act also allowed British customs authorities to seize goods bearing a misleading trade description, or suspected of bearing such a description, at the border. False trade description included measures of quantity, weight, manner of manufacture, material and 'as to the place or country in which any goods were made or produced.'⁴⁰

How the Act would be implemented was outlined by British customs authorities in late 1887. Its application was far reaching. A trade description was any 'direct or indirect,' description of the goods.⁴¹ Where any ambiguity concerning the place of manufacture existed, the customs authority would seize goods 'unless there be added to the trade description...the name of the place or country in which the goods were actually made or produced.'⁴² The Act therefore went beyond the confiscation of goods intended to deliberately defraud the consumer. It provided customs authorities a wide latitude when it came to stamping out any form of advertising that could be construed as misleading.

Customs interpreted this to mean that goods imported from a non-English speaking country that contained a description bearing English language words, and that was not accompanied by an obvious indication as to where the product

³⁹ *Special Report from the Select Committee on Merchandise Marks Act (1862) Amendment Bill*, Henry Hansard, June 1887 p.3

⁴⁰ Merchandise Marks Law Consolidation and Amendment Bill 1887, Clause 3. According to the evidence heard by the 1887 Select Committee, the 1862 Merchandise Marks Act did include a clause making it an offence to apply a misleading trade description when it came to the origin of goods, but this clause was 'inoperative.'

⁴¹ *The Economist*, The Economist Monthly Trade Supplement 10th December 1887, p.7

⁴² *Ibid*, p.8

had been manufactured, could be seized. For example, interrogating the Deputy Chairman of the Board of Customs on how the Act was enforced, MPs heard that goods marked with a simple trade description such as ‘Superfine black silk, 36 yards,’ would be stopped unless it was accompanied by a clarifying description of where the good was made.⁴³ Because of this, as the Deputy Chairman of the Board of Customs made clear when giving evidence to the 1890 Select Committee investigating the working of the Act, the majority of goods detained by customs in 1888 and 1889 were not fraudulently marked, they had been stopped merely ‘on account of trade descriptions in the English language.’⁴⁴

Unmarked Imports and the Act in the British Colonies

An important feature of the Act, which distinguished it from its successor, the 1926 Merchandise Marks Act, was that goods could be passed through customs unimpeded if they were imported unmarked, that is to say, with no description at all on the goods. The issue of unmarked imports cropped up frequently in evidence before the 1890 Select Committee tasked with reviewing the working of the Act. Several manufacturers complained that while the 1887 Act had reduced the import of goods into Britain with misleading marks, unscrupulous merchants continued to import unmarked foreign goods before adding misleading descriptions or trademarks after they had passed through customs.⁴⁵ The Conservative MP Howard Vincent, a member of the Select Committee and one of the most prominent supporters of the Fair Trade League (established in the early 1880s to campaign for a repeal of free trade), tabled an amendment to the Act to mandate that *all* foreign imports, marked or unmarked, should be stamped with the words ‘made abroad,’ but this amendment was rejected by the majority of the Committee. The Act’s successor legislation in 1926 moved somewhat in this direction by enforcing the compulsory marking of any foreign imports subject to an Order in Council by the Board of Trade. An application for an Order in Council

⁴³ *Report from the Select Committee on Merchandise Marks Act, 1887*, Henry Hansard, July 1890, p. 7

⁴⁴ *Report from the Select Committee on Merchandise Marks Act, 1887*, Henry Hansard, July 1890, p. 1

⁴⁵ *Report from the Select Committee on Merchandise Marks Act, 1887*, Henry Hansard, July 1890, pp. 13, 58, 69, 74

could be made by manufacturers affected by a particular category of foreign import.

After the Act was passed in the United Kingdom, the Board of Trade requested that the Foreign Office prevail upon colonial governments to pass similar legislation. The importance of this was paramount, as it was perceived that the issue of false marking was as, if not more, pernicious in colonial markets than in British ones. While fraudulent descriptions might be detected by English consumers, colonial purchasers might prove more credulous.⁴⁶ It was thus hoped that imports of low-quality foreign products into Britain's colonies would be checked. Most complied. By mid-1888, Gibraltar, the Gold Coast and the Straights Settlements had all passed similar legislation.⁴⁷ India implemented its own Merchandise Marks Act in April 1889. By 1890, the only colonies not to pass equivalent legislation were New South Wales, Queensland, Tasmania, and South Australia.⁴⁸

The Merchandise Marks Act as a Geographic Indication

Geographical Indications of Origin and Economic Theory

While the 1887 Merchandise Marks Act owed in part to concern about German encroachment on British manufactures, it was not a tariff, and it is not immediately clear whether it qualifies as a protectionist measure. The Act was an early form of geographic indication (GI) protection, whose development in the late nineteenth century Higgins has described as owing to the increased quantity of trade and awareness of brand importance.⁴⁹ In recent decades, GIs have become a hotly debated feature of international trade negotiations after their adoption in the 1992 WTO TRIPS agreement.⁵⁰

⁴⁶ *The Times*, August 16th, 1887, p.7

⁴⁷ *The Economist*, The Economist Monthly Trade Supplement, June 16th, 1888, p.10

⁴⁸ *Report from the Select Committee on Merchandise Marks Act, 1887*, Henry Hansard, July 1890, p. 130

⁴⁹ Higgins, D. "Firms and Indications of Geographical Origin in the First Global Economy," in *Brands, Geographical Origin, and the Global Economy*, 2018 (Cambridge, 2018)

⁵⁰ Handler, M. "The WTO Geographical Indications Dispute," *The Modern Law Review*, Vol. 69, No. 1, (January 2006)

The theoretical literature on geographical indications and trade economics is still at a relatively early stage. Some studies have argued that geographical indications are relevant for consumer decision making and thus can have significant impacts on trade. For example, Chiang and Masson outline a theoretical model in which consumers practice discrimination against countries with less well-established brand names.⁵¹ This is suboptimal for countries with less developed brands, such as in the developing world, as they must overcome the free rider problem associated with upgrading product quality and improving brand reputation across multiple firms. Raustiala and Munzer argue that GIs represent a form of monopoly rights. They discuss various legal arguments that have been proposed for GIs, including firstness, the moral right of the community to a place name, innovation incentives arising from the protection of intellectual property and preventing confusion for consumers. They conclude that the only valid argument in favour of GIs is to prevent confusion for consumers. Other justifications, including that of stimulating innovation incentives through the protection of intellectual property, are less justified because, unlike patents, GIs do not expire and, unlike registered trademarks whose advantage accrues to a single firm, they provide rents for other producers that free ride off the back of established GIs.⁵² In a similar fashion, Haucap et al argue that GIs act primarily as a signalling device to consumers for product quality. Addressing the ‘Made in Germany’ geographical indication that was spawned by the 1887 Merchandise Marks Act, they argue that higher start-up costs in more advanced industrial markets confer advantages to products in the eyes of consumers. These advantages can be conveyed through the use of GIs.⁵³

⁵¹ Chiang, S-C., and Masson, R. “Domestic Industrial Structure and Export Quality,” *International Economic Review*, Vol. 29, No.2, (May 1988)

⁵² Raustiala K., and Munzer, S. “The Global Struggle Over Geographic Indications,” *The European Journal of International Law*, Volume 18, Number 2, (2007) p.361

⁵³ Haucap, J., Wey, C., and Barmbold, J. “Location Choice as a Signal for Product Quality: The Economics of ‘Made in Germany,’” *Journal of Institutional and Theoretical Economics*, Vol. 153, No. 3 (September 1997)

Links Between Debates on the Merchandise Marks Act and Contemporary Debates on GIs

Several links can be drawn between contemporary debates over GIs and the 1887 Merchandise Marks Act. A first is disagreement between countries over their adoption. The value of a country's established brand reputation is an important factor when it comes to whether or not it widely adopts GIs.⁵⁴ Today, the largest proponent of GIs is the EU which has registered the most geographical indications, and which interprets the TRIPS legislation most strictly. In contrast, the United States, and several developing economies, see certain GIs as unfair and have accused the EU of protectionism.⁵⁵ In the late nineteenth century, the nearest equivalent of the EU when it came to GIs was Britain, whose dominant global position in manufacturing and more established brands led it to be a strong proponent. France was also a firm advocate of GIs having been an early innovator when it came to brand protection, particularly in the wine industry.⁵⁶ By contrast, Germany declined to sign the 1883 Paris Convention, nor its revision in Rome in 1886, only eventually joining the convention in 1903.⁵⁷ The United States similarly did not initially sign up to the Convention. In evidence at the 1890 Select Committee on the Act, MPs heard how Belgium had absented itself from the Madrid Convention on the international registration of trademarks in order to retain freedom for retailers to advertise as they wished, and because they perceived it would have a detrimental impact on trade.⁵⁸ New entrants to global markets such as Germany, the United States and Belgium had less well-established brand names and therefore less interest in GIs. They might be seen as analogous to developing countries today in their opposition to GIs.

⁵⁴ Huysmans, M. and Swinnen J. "No Terroir in the Cold? A Note on the Geography of Geographical Indications," *Journal of Agricultural Economics*, Volume 70, Issue 2, (April 2019)

⁵⁵ Montan, L. "Geographical Indications of Origin: Should They Be Protected and Why? An Analysis of the Issue from the US and EU Perspectives," *Santa Clara High Technology Law Journal*, Volume 22, Issue 2, (2006), p.323

⁵⁶ Dulguid, P. "French Connections: The International Propagation of Trademarks in the Nineteenth Century," *Enterprise and Society*, Volume 10, Issue 1, (March 2009)

⁵⁷ Higgins, D. "Forgotten Heroes and Forgotten Issues," Business and Trademark History during the Nineteenth Century" *The Business History Review*, Volume 86, Issue 2, (Summer, 2012), p.274

⁵⁸ *Report from the Select Committee on Merchandise Marks Act, 1887*, Henry Hansard, July 1890, p. 271

A second analogy is the link drawn by proponents of GIs between a specific place of production and the quality of goods they produce. EU arguments in favour of GIs revolve around the idea that quality can be tied to a particular location, embodied in the French term *terroir*. While today's debate about geographical indications mainly concerns protection of agricultural products, such as 'Iberico ham,' or 'Chianti wine,' the 1887 and 1890 Select Committee Reports are full of links drawn by witnesses between the quality of British manufactures and their place of origin, either due to superior British workmanship, higher quality of raw materials or innate British knowhow. One such example was watches, where the English hallmark had become a kind of 'national trademark.'⁵⁹ In the case of cutlery, one manufacturer declared 'the acknowledged superiority of the British article.'⁶⁰ One of the objectives of the Act was to prevent inferior goods being sold 'with a good name,' thus protecting the reputation of Sheffield steel, Birmingham watches or Worcester porcelain.⁶¹ *The Economist* elucidated the importance of the reputation of British manufactures in an article discussing the Merchandise Marks Act in 1890. Noting how the Act had prevented foreign competitors from gaining a price advantage from passing off continental goods as English ones, the newspaper cautioned British industry against lowering the quality of their manufactures:

"All the world over cheapness is more attractive to the producer than durability or high finish. Should British manufacturers then be encouraged to lower the quality of their productions in order to compete with their rivals? Advice of this kind has frequently been offered in late years, but those are short-sighted counsellors that would be content to see the high reputation of English goods sacrificed in order that the volume of our trade be enlarged."⁶²

Insofar as GIs can demonstrate product quality, as is suggested by the literature, their adoption by Britain can thus be seen as an attempt to protect its high quality

⁵⁹ *Special Report from the Select Committee on Merchandise Marks Act (1862) Amendment Bill, Appendix*, Henry Hansard, June 1887, p.252

⁶⁰ *Report from the Select Committee on Merchandise Marks Act, 1887*, Henry Hansard, July 1890, p. 136

⁶¹ *Special Report from the Select Committee on Merchandise Marks Act (1862) Amendment Bill*, Henry Hansard, June 1887, p.241

⁶² *The Economist*, The Economist Monthly Trade Supplement, November 15th, 1890, p.9

reputation in certain products in the face of increasing price competition from abroad. This would resonate with research that suggests that product quality matters when it comes to trade. Baldwin and Harrigan have argued that high quality products are better suited to overcoming both distance and trade costs.⁶³ Similarly, it has been widely documented that economic openness tends to encourage quality innovation.⁶⁴ From a historical perspective, British concerns to protect the ‘good name’ of their manufactures during the late Victorian period can therefore be seen both as a product of the increasing integration of world markets over that period, and as an adaptive response to the protectionist measures adopted by other commercial rivals from the 1880s onwards. These measures affected relative prices, retaliation for which Britain had chosen to abrogate due to its support for free trade. What Britain *could* protect was the quality of reputation of its products. Reputation was all the more important as British exports tended to remain competitive over the period against mass production techniques employed by commercial rivals in industries which utilised a skilled workforce and in which Britain had a strong brand.⁶⁵

A third analogy between the 1887 Merchandise Marks Act and contemporary disputes over GIs were debates over what exactly could be protected. A particularly thorny issue was generic names. Genericide, or the process through which a product ceases to be associated with its place of manufacture, has become a controversial topic in negotiations over GIs.⁶⁶ 1862 legislation over false marking provided an exemption for generic names, such as Kidderminster Carpets, Utrecht velvet and Stilton cheese. Nevertheless, the definition of generic names continued to prove difficult to pin down. For example, there was an extensive debate over the use of the term Balbriggan hosiery used by British manufacturers. They argued, unlike Sheffield steel, that consumers did not associate the product with its

⁶³ Baldwin, R. and Harrigan, J. “Zeros, Quality and Space: Trade Theory and Trade Evidence,” *American Economic Journal: Microeconomics*, Vol. 3, No. 2, (May 2011)

⁶⁴ Fan, H., Li, A-L. and Yeaple, S. “Trade Liberalisation, Quality and Export Prices,” NBER Working Paper No. 20323, (July 2014)

⁶⁵ Broadberry, S. *The Productivity Race*, Cambridge University Press, (Cambridge, 1997), p.209

⁶⁶ Gangjee, D. “Genericide: The Death of a Geographical Indication,” in *Research Handbook on Intellectual Property and Geographical Indications*, ed. Gangjee, D., Edward Elgar, (Oxford, 2016)

namesake in Ireland because it had been known thus for a long time.⁶⁷ In 1890, the debate was still ongoing, for example over whether ‘sherry’ should be considered a generic name when it came to an adulterated form of the drink from Hamburg.⁶⁸

Search Costs or Rent Seeking? Political Context, Manufacturers, Merchants and Shippers

While these analogies are instructive in situating the Act within the contemporary literature over geographic origins and trade, there is still the question as to whether it represented protectionism. As I have discussed above, economic theory is somewhat ambiguous in its treatment of GIs. The primary justification provided for GIs has been that they reduce consumer search costs and improve market efficiency, while the primary criticism has been that they provide unfair rents to producers in countries that use GIs.

The political context and intention behind the passing of the Merchandise Marks Act is therefore important, as are the attitudes of contemporaries about the purpose of the legislation. In this section, I show that while the Act was seen by some of its advocates merely as a means to prevent fraud, it also coincided with the peak of agitation for tariff reform in the second half of the nineteenth century and was regarded by others as a tool to protect British manufacturers. I also show that, like today, there was a robust debate between economic actors that saw the legislation as a way of enhancing consumer information and those that saw the Act as an impediment to trade. Most notable in the latter case were merchants and shippers.

⁶⁷ *Special Report from the Select Committee on Merchandise Marks Act (1862) Amendment Bill*, Henry Hansard, June 1887, p.241 p.285

⁶⁸ *Report from the Select Committee on Merchandise Marks Act, 1887*, Henry Hansard, July 1890, p. 194

Political Background

The Merchandise Marks Act was passed the same year in which protectionist sentiment reached its peak in Victorian Britain, with organisations such as the Fair Trade League gaining in membership and public voice.⁶⁹ With the formation of the Salisbury Government in coalition with Liberal Unionists in 1886, Conservative MPs supportive of fiscal reform had become a key swing constituency in Parliament. There was also increasing pressure on the Conservative Party leadership to support tariff reform from the grassroots of the party, most notably after resolutions in favour of fair trade were passed at party conventions in Scotland, Birmingham, and Oxford in 1887.⁷⁰

Was the passing of the Act by the Salisbury government linked to rising support for tariff reform? On the one hand, the Act counted free traders such as the Liberal MP Mundella among its primary advocates. Mundella, unsurprisingly, did not characterise it as an attempt to protect British manufactures from foreign competition, although he represented the Sheffield constituency most affected by misleading indications.⁷¹ Other voices that supported free trade characterised the legislation as an attempt to protect manufacturers from ‘unfair’ foreign competition. As the pro free trade *Economist* noted in November 1887, “With the main object of the Act, it scarcely necessary to say we entirely sympathise. It is directed against fraud, and fraud, in every shape, must be abhorrent to every honest man.”⁷²

Rather than a unilateral act of trade retaliation, it was noted how the Act could potentially protect foreign manufacturers as well as British ones from fraudulent marking of their goods, that is assuming their countries signed up to the 1883 Convention on Industrial Property and enacted similar legislation. Herbert Hughes, a solicitor representing the Sheffield Cutlers, argued that the legislation

⁶⁹ Zebel, S. “Fair Trade: An English Reaction to the Breakdown of the Cobden System,” *The Journal of Modern History*, Vol. 12, No. 2, (June 1940), p.178

⁷⁰ *Ibid*, p.177

⁷¹ The constituency of Brightside, in the industrial centre of Sheffield

⁷² *The Economist*, The Economist Monthly Trade Supplement, November 12th, 1887, p.3

‘would not only deal with sins against ourselves but will deal with our sins against other people.’⁷³

The Merchandise Marks Act also did not elicit substantial opposition in Parliament, although one Liberal MP felt that the protection of the place names from which manufactured goods originated was treading on ‘risky ground’ given the potential for endless litigation.⁷⁴ One Irish MP tabled an amendment to protect Irish industries from the malpractices of British manufacturers. Otherwise, the legislation passed without major controversy.⁷⁵

Some MPs that were advocates of, or sympathetic to, the fair trade movement saw the Act as a means to address foreign competition in trade, however. Howard Vincent, among the most influential of all MPs supporting fair trade at the time, was a member of the 1890 Select Committee investigating the effectiveness of the legislation and was of the view that the Act was mainly directed to the ‘protection of English trade rather than foreign.’⁷⁶ Vincent’s view was that the legislation should be tightened to compulsorily mark all foreign goods. When the Master Cutler of Sheffield agreed with his amendment while giving evidence to the Select Committee, Vincent asked whether it would not have the effect of: ‘giving a great development and impetus to our manufacturing industry?’⁷⁷ The pro-free trade Chairman Baron Henry de Worms asked however whether such a measure would exclude foreign goods from the country unfairly and ‘diminish the trade of the country generally?’⁷⁸

In some respects, therefore, wider debates over the merits of free and fair trade were played over the Act. In 1886, a pamphlet appeared from the pro-free trade Cobden Club attacking the Royal Commission into the Depression of Trade and

⁷³ *Special Report from the Select Committee on Merchandise Marks Act (1862) Amendment Bill*, Henry Hansard, June 1887, p.126

⁷⁴ Hansard, 1st July 1887

⁷⁵ *Ibid*

⁷⁶ *Report from the Select Committee on Merchandise Marks Act, 1887*, Henry Hansard, July 1890, p.13

⁷⁷ *Ibid*, p.56

⁷⁸ *Ibid*, p.57

Industry's minority report that Britain should retaliate against foreign tariffs. The Cobden Club made no mention of the majority report's recommendation for a tightening of legislation on the false marking of goods.⁷⁹ By 1897, however, the Cobden Club had changed their tune, describing 'that unfortunate Merchandise Marks Act, which undoubtedly was intended, from a Protectionist point of view, to put some impediment in the way of foreign merchandise and to secure some Measure of Protection for the English manufacturers.'⁸⁰ By contrast, ahead of the 1892 General Election, the Conservative Party issued a booklet for candidates highlighting the Act as one of the important achievements of the Salisbury Ministry. The booklet noted approvingly: "In the first year of operation (1888-9), 22,286 parcels of goods were detained at the ports." This had 'generally been most beneficial for the manufacturing interests of the country.'⁸¹

Unfair Foreign Trade Practices and Consumer Protection: Manufacturers

The views of economic actors are also important when it comes to assessing the intentions of the legislation. Their voices can be heard in the evidence provided to the 1887 and 1890 Select Committees. Several manufacturers argued that the legislation was designed primarily to protect consumers, rather than themselves. One manufacturer argued: 'We do not want protection in any form whatever. We only want the public to know really what they are buying, and today they do not.'⁸²

When challenged about the principle of *caveat emptor*, it was argued by manufacturers that consumers were in many cases unable to distinguish between foreign and domestic made goods, unless they had the requisite expertise. In one instance, a watchmaker highlighted that MPs on the Committee had been sold

⁷⁹ Medley, G. "Fair Trade Unmasked: Notes on the Minority Report of the Royal Commission on the Depression of Trade and Industry," Cassell and Company (London, June 1887), Internet Archive, last accessed 28th June 2021, [weblink](#)

⁸⁰ "Free trade, preferential tariffs, Canadian fiscal policy, imperial trade and foreign trade, sugar bounties and sugar taxes, foreign prison-made goods, merchandise marks, trade questions and the diplomatic service" *The annual meeting of the Cobden Club, 1897 with the Committee's report*, (November, 1897), Internet Archive, last accessed 28th June 2021, [weblink](#)

⁸¹ *Six year's work: a review of the legislation and of the administration of the Conservative and Unionist government under Lord Salisbury, 1886-1892*, JSTORE Primary Sources p.58

⁸² *Report from the Select Committee on Merchandise Marks Act, 1887*, Henry Hansard, July 1890, p.119

German made watches marked as English to the displeasure of the affected members.⁸³

Nevertheless, it is clear that many manufacturers had a vested interest in its application. Courtney Boyle, Assistant Secretary to the Board of Trade and the main architect of the legislation, was of the view the Act served a dual purpose. To prevent purchasers from being deceived, “And also to prevent the tradesman who has a good name...having things fraudulently sold under that description.”⁸⁴ The Sheffield Cutler’s Company was a primary instigator of the legislation, and Sheffield had been most affected by the phenomenon of false marking, but the 1887 Select Committee also heard from a variety of manufacturing interests, among them representatives of the watch trade, cotton trade, hosiery trade, cigar manufacturing trade, iron trade and amber trade, all of whom were supportive of the legislation.⁸⁵ Those most enthusiastic for an extension of the legislation to require compulsory marking of all goods were usually those for whom geographical indications were most valuable. For example, one witness declared that it would be ‘a very great advantage’ to the Worcester porcelain industry to have all foreign goods marked and they should have no objection to adding the name ‘Worcester porcelain’ to their products should foreign governments similarly require the compulsory marking of British goods.⁸⁶

Some manufacturers also clearly saw the legislation as a form of retaliation for foreign protectionism. For example, the Chairman of the Hemp and Tow Spinners Association believed an additional strengthening of the law – to mark all foreign imported products - was justified on the basis that ‘we pay very heavy tariffs.’⁸⁷ The ‘small masters’ of the Sheffield trade similarly felt the Act was just retaliation

⁸³ *Report from the Select Committee on Merchandise Marks Act, 1887*, Henry Hansard, July 1890, p. 85

⁸⁴ *Special Report from the Select Committee on Merchandise Marks Act (1862) Amendment Bill*, Henry Hansard, June 1887, p.17

⁸⁵ *Ibid*, index

⁸⁶ *Report from the Select Committee on Merchandise Marks Act, 1887*, Henry Hansard, July 1890, p.180

⁸⁷ *Report from the Select Committee on Merchandise Marks Act, 1887*, Henry Hansard, July 1890, p.196

for the fact that they paid high duties on their exports. They complained about the preponderance of foreign merchants ‘who were so interested in foreign trade that they will encourage foreign productions before they encourage English productions.’⁸⁸ John Holden, a cloth merchant from Lancashire representing 200 firms, complained that Indian firms had copied his firm’s designs and were producing cheap rip-offs. Noting that profits in the Lancashire cloth industry were cratering, Holden highlighted the practices of American manufacturers dumping cheap cloth on the British markets. ‘The effect of that will be that the genuine goods and the genuine trade, and the manufacture of this country is spoilt for the time being.’ But if it were to be known the cloth was American (by being marked) ‘they could be cleared out without injuring to the same extent the English manufacturers.’⁸⁹

The Act was also geographically discriminatory. As I have discussed above, German competition played a driving force in motivating the legislation. Germany is mentioned 107 times in the 1887 Select Committee Report on the Merchandise Marks Act, as compared to 54 times for France, the next most mentioned country, and 31 times for the United States. Customs authorities’ interpretation of the law also singled out non English speaking countries. Customs would stop goods containing descriptions, in English, from non-English speaking countries. However, customs did not stop goods containing English descriptions from English speaking countries, as it was difficult to argue that these descriptions could represent a misleading indication of their origin. Assistant Secretary to the Board of Trade Boyle noted how this advantaged goods from the United States and English colonies over those of other foreign countries.⁹⁰

Opposition to the Merchandise Marks Act: Merchants

While the Merchandise Marks Act did not arouse significant opposition in Parliament, and was embraced by manufacturers, it was far from universally

⁸⁸ *Ibid*, p.191

⁸⁹ *Ibid*, p.215

⁹⁰ *Report from the Select Committee on Merchandise Marks Act, 1887*, Henry Hansard, July 1890, p.25

welcomed. Merchants felt that it was designed to protect manufacturing interests and neglected their own. Merchants were under-represented when MPs considered the legislation at the 1887 Select Committee, but one of the few witnesses called from the mercantile community, Louis Blumfeld, a merchant of pipes and fancy goods, believed that the bill would be “a very serious thing,” for his trade by preventing the merchant from styling the goods in the way requested by the customer.⁹¹ The Secretary of the London Chambers of Commerce wrote a letter to the Committee expressing the view that the legislation would be onerous on tobacco brokers and merchants.⁹² Similarly, in a letter written to *The Economist* in April 1887, one tobacco merchant highlighted the ‘extreme severity with which the Government Merchandise Marks Act Amendment Bill will press upon commission merchants and brokers.’⁹³

The 1890 Select Committee, hearing evidence two years after the Act was put into operation, heard many complaints from merchants. Kenric Murray, Chairman of the London Chambers of Commerce put it thus when asked if the Act had been successful: “I divide my answer into two parts. It had been favourable for manufacturers but less favourable for merchants...I think the great majority of mercantile associations...did not quite realise the full bearing of the intention of the new legislation [when it was first implemented].”⁹⁴

Complaints about the Act took several forms. One was that it prevented merchants from shipping goods with the descriptions desired by the purchaser. This was a departure from previous practice, as retail vendors were accustomed to asking merchants to provide goods with their own names stamped upon the product.⁹⁵ Another was that it was customary to the merchants to put their own name on the goods as consumers were more familiar with brand associated with the merchant’s

⁹¹ *Special Report from the Select Committee on Merchandise Marks Act (1862) Amendment Bill*, Henry Hansard, June 1887, p.135

⁹² *Ibid*, p.245

⁹³ *The Economist*, April 9th, 1887, p.463

⁹⁴ *Report from the Select Committee on Merchandise Marks Act, 1887*, Henry Hansard, July 1890, p.125

⁹⁵ *Special Report from the Select Committee on Merchandise Marks Act (1862) Amendment Bill*, Henry Hansard, June 1887, p.137

name than the manufacturer.⁹⁶ By contrast, manufacturers complained about merchants who refused to purchase goods that had been marked by manufacturers, particularly those with less well established brand names.⁹⁷

Merchants also felt that the Act gave away trade secrets. Murray argued that: “If a merchant goes to great expense in sending out travellers and opening out branch houses in different parts of the world, we consider he has a right to the relative secrecy of the results which he obtains by that expenditure.”⁹⁸ John Pollock, Chairman of the British Chamber of Commerce in Paris, agreed, arguing that goods bearing of a mark of origin: “Gives up a trade secret, and a merchant should not be obliged to tell his customer where his goods come from.”⁹⁹ Another argument raised by merchants was that the Act would backfire and provide foreign firms with free advertising. John Kay, representing a major Glaswegian textile importer, described the operation of the Act in 1890:

“Of course the German manufacturer likes [the Act] very much. He has taken advantage of this Act so far that, whenever possible, he puts his name on. If he is allowed, he puts his town on, but we confine him as much as possible.”¹⁰⁰

Merchants were generally dubious about any improvement in consumer information arising from the Act. In the words of Murray: ‘I do not think the purchaser cares one iota what the nationality of goods is.’¹⁰¹ He argued that purchases were based simply on price and quality. Pollock complained that the law was interfering with the free transit of goods at the ports. “It is the most stringent law with regard to merchandise in any country at the present moment.”¹⁰² He argued that: ‘the French opinion is, that we are coming to protection,’ and moreover that the Act would backfire by inciting other countries

⁹⁶ *Ibid*, p.113

⁹⁷ *Report from the Select Committee on Merchandise Marks Act, 1887*, Henry Hansard, July 1890, p. 74

⁹⁸ *Ibid*, p. 123

⁹⁹ *Ibid*, p. 201

¹⁰⁰ *Ibid*, p. 113

¹⁰¹ *Ibid*, p.123

¹⁰² *Ibid*, p. 210

to pass similar legislation against Britain. Indeed, Pollock argued, any further strengthening of the Act could elicit a tariff response from the French.¹⁰³

Further Opposition to the Act: The Shipping Industry

The Act also attracted strong opposition from the shipping industry. Complaints were heard about disruption at the ports. Disruption had been caused by customs procedures to check that goods were not falsely marked and detain them if the marks were considered misleading. Crucially, these checks applied on goods that were destined for sale in the British market, and on those for transshipment to foreign or colonial markets. This had resulted in the loss of Britain's entrepot trade, or so the shipping industry claimed. Foreign manufacturers, they complained, had instead established direct links with other markets in order to avoid having their goods checked by British customs.

Miles Fenton, General Manager of the South Eastern Railways, complained that the Act had made the process of customs checks over goods in transit for onward locations such as New York much more strenuous. This in turn had discouraged foreign transit trade: 'the examination has become so altered, and made so strict, that it is actually driving the traffic away...and now it is finding its way to foreign ports.'¹⁰⁴ He cited several instances of British customs adopting a strict interpretation of the law and detaining goods with any English language writing on them.¹⁰⁵ Fenton believed that unless the Act was modified, the shipping trade would materially diminish, as foreign merchants dared not risk their goods passing through British customs and being detained.

Charles Henry Wilson MP, a steam ship owner, echoed these sentiments. Since the Act had come into force, traffic from continental ports: 'has been seriously interfered with by foreign goods, sent to British ports for transshipment, having been seized, delayed and subjected to heavy expenses; and in some cases they have

¹⁰³ *Ibid*, p.210

¹⁰⁴ *Ibid*, p.45

¹⁰⁵ *Ibid*, p.46

been damaged and their market value reduced.’¹⁰⁶ Wilson argued the practical effect of the Act was to have resulted in a ‘double injury to British trade.’ This was because foreign merchants that sold falsely marked goods to foreign markets now simply sent them directly. As foreign governments had not passed similar legislation, this provided no benefit for English manufacturers, but had damaged the carrying trade. Wilson argued that goods destined for transshipment should not be stopped by British customs. Asked whether this could see British shippers facilitating the sale of falsely marked goods, Wilson said: ‘it is one of those difficulties you cannot get over, and if you try to stop them here, you do not the least good because they go direct.’¹⁰⁷

Edmund Taylor, a representing the Liverpool Steamship Owners Association similarly objected to the Act’s provisions on transshipment, providing a prosaic, if illuminating, example about the frictions that had been caused to the transshipment trade:

“...it is a case with reference to gloves, and the label there was “Neptune.” These goods were made in Belgium and they were stopped at Folkstone. They were intended for a sailing on the 29th of August and we could only get them away on the 19th of September. The result of that one stoppage is that we have lost the whole traffic of that one consignee.”¹⁰⁸

Richard Cattarns, General Manager of the General Steam Navigation Company, who represented the short sea steamers between the continent and Britain, noted how half of the shipping trade was made up of goods in transit. He said:

“...our transit trade has been more or less destroyed by the operation of the Act, and a still further fact has developed itself in that the course of trade has turned around, as it were, and that we are now taking goods to the continental ports for transshipment there in the ocean steamers, in place of our bringing goods from the Continent for transshipment here into British bottoms.”¹⁰⁹

¹⁰⁶ *Ibid* p.145

¹⁰⁷ *Ibid*, p.147

¹⁰⁸ *Ibid*, p.150

¹⁰⁹ *Ibid*, p.161

Like the other witnesses, he argued that the provisions of the Act should not apply to goods in bond (those destined for transshipment):

“...it is not only the shipping trade that is being injured by this process, but the trade of the country at large...Formerly, London had the great advantage, because you could always secure a lading in London, largely owing to the enormous quantities of this transshipment traffic. Now that lading has been destroyed, and the inducement for that ocean ship to come to London destroyed with it, with the result that charters are now made on equally favourable terms to the port of Hamburg.”¹¹⁰

Agricultural Interests

Landed interests were hardly represented when it came to debates over the Act. Although one Select Committee member, Charles Wing Gray, a farmer and MP for the rural constituency of Maldon, enquired as to the effect of the Act on fraudulently marked bundles of foodstuffs in 1890, agricultural products were not mentioned at all in the 1887 Select Committee.¹¹¹ From 1890 onwards, concerns about the false marking of agricultural products did become more prominent, resulting in legislation that allowed prosecutions under the Merchandise Marks Act by the Board of Agriculture.¹¹² However, in the context of the debate over the motivations of protectionist sentiment in Britain during the late nineteenth century, it is striking that when it came to the main piece of legislation concerning false marking, landed interests played almost no role.

Search Costs or Rent Seeking?

Ultimately, we are unlikely to resolve the debate as to whether the Merchandise Marks Act was a form of soft protectionism. The Act meant different things to different people and, much like the debate over GIs today, was seen on the one hand as legislation that remedied unfair trade practices and improved consumer decision making, and on the other as an unjustified impediment to free trade. Even within groups that supported the legislation, such as manufacturers, opinion was

¹¹⁰ *Ibid* p.162

¹¹¹ *Ibid*, p.9

¹¹² Higgins, D. and Gangjee, D. “Trick or Treat?” The Misrepresentation of American Beef Exports in Britain during the Late Nineteenth Century,” *Enterprise and Society*, Vol. 11, No. 2, June 2010, (the bill was in 1896)

not uniform. While some manufacturers saw it as protection from foreign competition, others claimed they only wanted a level playing field.

What is clear is that the Act was formulated at least *in part* as an attempt to protect manufacturers against foreign competition. Moreover, witnesses called from the mercantile and shipping community were opposed to the legislation and saw it as an unnecessary and damaging interference to trade. When it comes to the political economy of the debate, it is striking that the Act was passed at the zenith of the fair trade movement's influence in the late nineteenth century. That the Act was able to secure broad based support in parliament was likely because its focus on curtailing 'unfair' foreign competition made it less ideologically suspect than tariffs. By contrast, the main opponents of the Act, at least until the middle of the 1890s, stemmed from a relatively narrow set of economic interests. Indeed, the trade-off made between the manufacturing and mercantile and shipping community was explicitly acknowledged in the 1890 Committee Report:

'One of the most important points into which your Committee had to enquire was that raised by witnesses on behalf of the shipping industry who contended that that industry was being seriously damaged by the inconvenience caused to shippers by the examination of goods in transit.'

But Committee could not recommend exempting goods in transit from the Act because:

'...such abolition would facilitate the importation...of large quantities of goods bearing false indications of origin or otherwise falsely marked, to the great detriment of British manufacturers or workmen.'¹¹³

The Impact of the Merchandise Marks Act on British Trade: Qualitative Evidence

Contemporary Views About the Effect of the Merchandise Marks Act on Trade

What was the impact of the Merchandise Marks Act on British trade? Before addressing empirical evidence, it is worth outlining contemporary views. While

¹¹³ *Report from the Select Committee on Merchandise Marks Act, 1887*, Henry Hansard, July 1890, iii

initially supportive, a large section of opinion grew quickly concerned that the Act had backfired. There is little doubt that contemporaries saw the Act as being an important piece of trade legislation. *The Economist* reported in February 1888 that “Although the Parliamentary Session of 1887 was not prolific of new legislation, several measures of considerable importance, from the business point of view, were passed. Of these, the chief was the Merchandise Marks Act, the effect of which, stated in a few words, is, that goods must not be sold under false pretences.”¹¹⁴ In August 1887, *The Times* editorial reported “There are, indeed, few branches of trade into which this Bill, if rigidly enforced, will not introduce a sort of revolution.”¹¹⁵

Official attitudes towards the Act were that it had been successful in its objectives. The summary of the 1890 Select Committee reported that: ‘the Merchandise Marks Act of 1887, has generally been most beneficial to the manufacturing interest of the country, and the importation of fraudulently marked goods...has materially diminished.’¹¹⁶

Nevertheless, it was acknowledged that the Act had caused frictions at the border at an early stage. Austrian and French merchants had complained about the Act according to *The Economist*, which also noted in February 1888 that the Act ‘continues to give a good deal of unpleasant emotion to our exporters,’ on account of the treatment of transhipped imports.¹¹⁷ The same paper, in December 1888, noted continued ‘grumbling’ from the mercantile community about its implementation.¹¹⁸ This led the customs to reissue their guidance on the treatment of imports under the legislation. By 1890, major complaints were being voiced in the press from the shipping industry. *The Economist* reported:

¹¹⁴ *The Economist*, Commercial History and Review of 1887, February 18th, 1888, p.3

¹¹⁵ *The Times*, August 16th, 1887, p.7

¹¹⁶ *Report from the Select Committee on Merchandise Marks Act, 1887*, Henry Hansard, July 1890, iii

¹¹⁷ *The Economist*, February 11th, 1888, p.184

¹¹⁸ *The Economist*, December 1st, 1888, p.1506

“Loud complaints are made by the English shipping agents established in Paris over the injury done to their business by the Merchandise Marks Act in England. A great part of the carrying trade between France and the United States is carried on by the English lines of steamers, freight being collected by their agents here and forwarded to London or Liverpool for trans-shipment. Although such merchandise only enters English ports in transit, the Customs officers examine it as if intended for sale in England, and detain it if found bearing marks or labels in the English language, as often required by the American importer.”¹¹⁹

Complaints from shippers gave way to the idea that the Act had aided foreign competition by providing ‘free advertising’ for German products. In August 1890, *The Economist* reported the words of the British Consul General in Berlin thus:

“The experience of the past year has demonstrated that the Merchandise Marks Act, 1887, far from damaging German export industry, has...called the attention of foreign buyers to its capability. It appears that goods bearing the description ‘made in Germany’ are frequently demanded, and direct relations of German merchants with foreign purchasers have been increased.”¹²⁰

The most famous articulation of the backfiring of the Merchandise Marks Act was Ernest Edwin Williams’s influential polemic ‘Made in Germany.’ Williams, a journalist connected to the Fabian Society, was commissioned by the publisher William Heinemann to investigate the causes of Britain’s weak industrial performance in the mid-1890s. Williams’s book, published in 1896, primarily attributed the causes of Britain’s industrial strife to foreign tariffs, subsidies for the transport industry and superior technical education. Nevertheless, he also argued Act had damaged English manufactures: “The best argument against it is that it operates as a free advertisement for German manufactures.”¹²¹ Williams also neatly encapsulated the political economy behind debates over the Act:

“The conflicting opinions raging around its merits will be found to resolve themselves finally into a case of Manufacturer v Trader. Sheffield sees in the Act a protection against German cutlers: London, a blow at her trading interests. London gets rich on sale commissions on German manufactures, and she likes not the introduction of direct trading, which

¹¹⁹ *The Economist*, May 31st, 1890, p.696

¹²⁰ *The Economist*, August 16th, 1890, p.1052

¹²¹ Williams, EE. *Made in Germany*, Heinemann (London, 1896), p.138

– as she claims – is fostered by the Act...when London urges that, indirectly, English manufacture as well as English trade is hit by the Act, she essays a more formidable argument. But London has no data wherewith to support her contention.’¹²²

Concerns about the effect of the Act were not limited to polemics. In the same year of the book’s publication, the perceived damage to British shipping, with Hamburg seen as having overtaken Liverpool as a shipping destination, led to calls in Parliament for a public enquiry.¹²³ In 1897, industrial commissioners enquiring into the progress of technical education in Germany reported that the Merchandise Marks Act ‘is generally spoken of as a strong weapon against England,’ due to providing advertising for the goods of foreign rivals.¹²⁴ Courtney Boyle, one of the architects of the Act, was meanwhile defending the working of the legislation. In a speech in Wakefield, he addressed the accusation that it had seen the English market flooded with German goods, highlighting that in the nine months to September 1895 imports from Germany had decreased while exports had increased. He also argued that Act had done good by calling attention to the significant numbers of goods produced by other nations.¹²⁵

Boyle’s arguments may look naïve. But as Williams noted, protestations by the mercantile and shipping industry that the Act was damaging British trade fell on deaf ears because they were unable to marshal the quantitative evidence necessary to change public or political opinion. The next section explores who was right.

The Impact of the Merchandise Marks Act on British Trade:

Quantitative Evidence

As discussed above, contemporaries highlighted three impacts of the Merchandise Marks Act on British trade. First, advocates of the legislation argued the Act had

¹²² *Ibid*, p.139

¹²³ *Financial Times*, August 7th, 1896, p.5

¹²⁴ *Financial Times*, January 20th, 1897, p.2

¹²⁵ *The Times*, January 22nd, 1896, p.7

reduced the amount of falsely marked goods entering Britain. Second, after time it was perceived that the Act may have encouraged British, and foreign and colonial, imports of German products due to the free advertising provided to goods. Third, opponents from the mercantile and shipping industries argued that the Merchandise Marks Act had negatively impacted Britain's transshipment trade and encouraged direct trade between foreign countries and British colonies. This section will examine each of these claims.

The Impact of the Act on Falsely Marked Goods

The first is difficult to verify. To do so, data on the amount of falsely marked goods entering the United Kingdom would be needed and this was not collected by British customs. The main evidence cited in favour of the diminishment in imports of falsely marked goods is that the number of detentions of goods went down over time. For example, the number of goods detained under the Act fell from 5,677 in the financial year 1888-89 to 3,403 in 1890-91. After this point, detentions of goods levelled off.¹²⁶ These data on detentions are not strong evidence of the Act's effectiveness, however. First, the same data suggests that seizures of goods fell less than detentions over the time period.¹²⁷ Second, manufacturers complained that foreign exporters had circumvented the legislation by exporting unmarked imports which were not checked under the Act.¹²⁸ It is therefore possible that a fall in the number of stopped goods could have been the result of foreign producers sending their goods to Britain unmarked.

Customs did not provide a breakdown of the total value of stopped goods under the Act. However, the 1890 Select Committee report did contain data on the value of stoppages from the United States in the financial year ending March 1889. This can be cross referenced with the trade returns provided in the year 1888 to provide

¹²⁶ *Thirty Seventh Report of the Commissioners of Her Majesty's Customs on The Customs (For the Year ended 31st March 1893)*, 1893

¹²⁷ *Ibid.* Seizures were 688 in 1888 and 533 in 1893. Not all goods that were detained by customs were seized: goods that were detained could be released if the importer in question removed misleading marks.

¹²⁸ For example, the testimony of James Jeffries, representing the small masters of Sheffield. *Report from the Select Committee on Merchandise Marks Act, 1887*, Henry Hansard, July 1890, p.191

an indication of the scale of stoppages conducted under the Act (Table 1).¹²⁹ As can be seen, the total value of stopped goods from the United States amounted to just 0.06% of total imports from the country. In some product categories (Books, Buttons, Pig Lead and Tin Ware) stoppages were a greater share of imports, but the economic value of these imports was very small.

Table 1: Selected and total goods stopped under the Merchandise Marks Act 1887 from the United States

Category	Number of detentions	Value of goods stopped (£)	Total imports (£)	Percentage of imports
Bacon	3	1,282	3,874,170	0.03%
Books	59	2,099	51,113	4.11%
Butter	3	458	95,005	0.48%
Buttons	1	20	468	4.27%
Cheese	12	3,629	1,906,167	0.19%
Clocks	3	543	91,741	0.59%
Confectionary	2	84	15,471	0.54%
Cotton goods	3	55	325,113	0.02%
Drugs	5	361	122,571	0.29%
Hams	1	75	1,207,237	0.01%
Leather goods	20	11,097	1,731,872	0.64%
Musical instruments	2	152	137,682	0.11%
Oil cake	1	625	1,184,210	0.05%
Paper goods	10	73	30,275	0.24%
Pig lead	3	3,960	83,821	4.72%
Tin ware	6	146	471	31.00%
Woollen goods	3	26	16,600	0.16%
Total	290	51,255	79,763,018	0.06%

Data on detentions taken year from March 1888 to March 1889, data on imports 1888-89, selected goods are those enumerated in trade returns. Source: Report from the Select Committee on Merchandise Marks Act, 1887, Henry Hansard, July 1890, Appendix No. 6

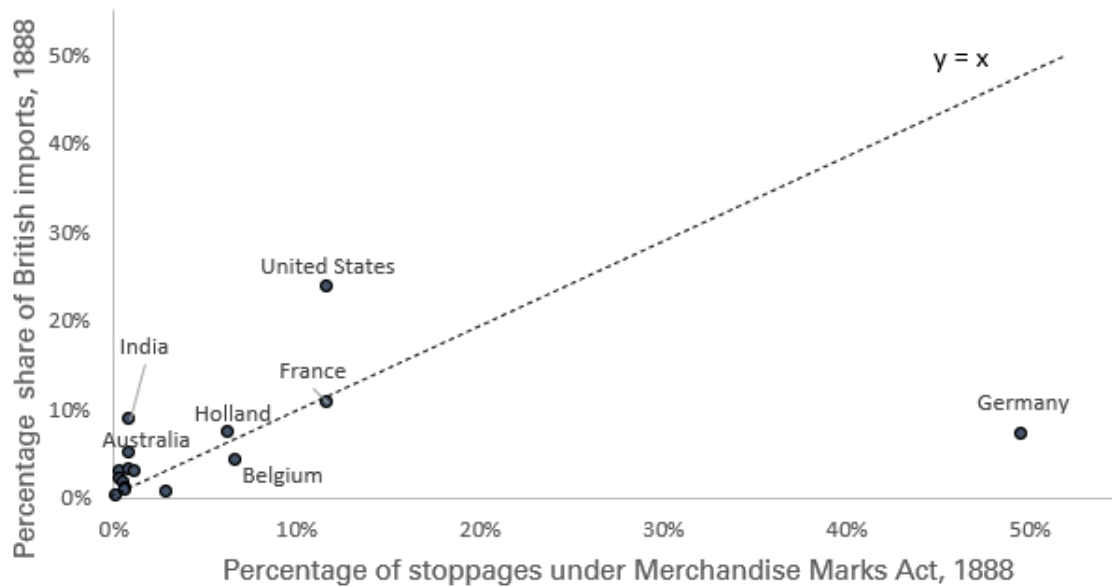
It is difficult to generalise stoppages of goods from the United States to other countries, however. The United States was not the target of the Act: this was Germany. Figure 1 plots the number of stoppages under the Act in the financial year ending March 1889 by country against the share of world trade. Germany makes up nearly 50% of all the stoppages performed under the Act in the first year of operation despite making up less than 10% of British imports.¹³⁰ Belgium was also stopped frequently given its share of British imports (7% of stoppages versus 4% import share) and was also complained about by manufacturers in the Select

¹²⁹ This comparison is a rough one because I compare trade data in the *calendar year* 1888 to customs seizures in the *financial year* March 1888 to March 1889

¹³⁰ Data of trade shares are taken from the Bank of England's Millennium of Macroeconomic Data dataset, Thomas, R and Dimsdale, N (2017) "A Millennium of UK Data", Bank of England OBRA dataset, <http://www.bankofengland.co.uk/research/Pages/onebank/threecenturies.aspx>

Committee Reports.¹³¹ By contrast, the United States made up a relatively low share of stoppages under the Act given its share of British imports.

Figure 1: Stoppages under the Merchandise Marks Act versus the share of world trade by geography



Source: Report from the Select Committee on Merchandise Marks Act, 1887, Henry Hansard, July 1890, Appendix No. 10

¹³¹ For example, see: *Special Report from the Select Committee on Merchandise Marks Act (1862) Amendment Bill*, Henry Hansard, June 1887, p.37

Table 2: Most seized goods under the Merchandise Marks Act, 1888/1889 (number of detentions)

	1888	1889
Cigars	29	47
Stationary	30	39
Cutlery	33	27
Sample books, card etc	30	28
Glass (bottles, &c.)	18	25
Woollen goods	24	16
China, earthenware, &c.	9	31
Soaps	12	20
Watches, clocks etc	10	22
Buttons	14	16
India-rubber goods	15	14
Cotton goods	17	10
Spirits	13	13
Arms (revolvers, rifles, &c.)	12	13
Brushes.	4	21
Toys	1	24
Silk goods	6	16
Needles	13	9
Iron and steel manufactures	3	17
Wine	5	14
Brandy	12	6
Cigarettes, &c.	5	10
Boots and shoes	1	12
Painter's colours	1	12

Source: Report from the Select Committee on Merchandise Marks Act, 1887, Henry Hansard, July 1890, Appendix No. 7

Partly, this is likely to be explained by the fact that stoppages under the Act were predominantly directed towards imports of manufactured goods, while imports from the United States were skewed towards primary commodities.¹³² Table 2 provides data on the number of goods seized by product category in the two years after the Act was implemented. Final manufactured products such as stationary, cutlery, books, cards, glass, and woollen goods were by far the most frequently seized goods, reflecting the Act's intention to reduce the importation of falsely marked manufactured goods. Perishable goods and food and drink products,

¹³² Kravis, I. "The Role of Exports in Nineteenth-Century United States Growth," *Economic Development and Culture Change*, Volume 20, Number 3, (April 1972) p.397. The fact that goods imported from English speaking countries with English marks were not automatically stopped may have also played a role in the smaller number of stoppages from the United States.

including cigars, wine and spirits were also stopped if less frequently, while primary and intermediate goods did not appear to have been stopped at all.¹³³

The Impact of the Act on British Imports: High Frequency Data from The Economist

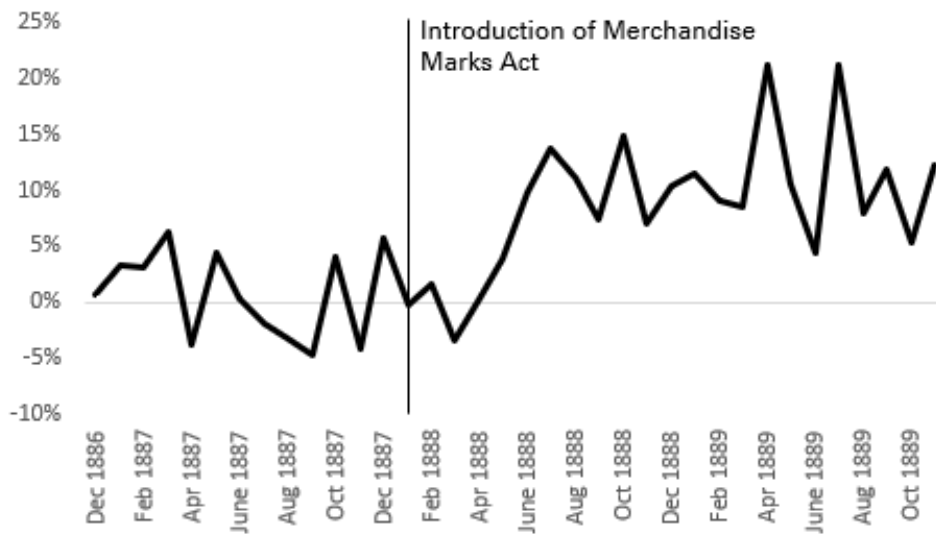
The impact of the Merchandise Marks Act on British imports of goods may have been larger than simply the value of those goods directly stopped at the border. Given the complaints by merchants about the Act causing disruption to trade, it could have caused trade frictions that resulted in a broader fall in British imports.

Descriptive statistical evidence does not suggest that the introduction of the Merchandise Marks Act coincided with a decrease in British imports, however. *The Economist* provided data on the value of British imports by product category at a monthly frequency in its *Monthly Trade Supplement*.¹³⁴ The advantage of this data is that it provides a high frequency snapshot of the impact of the Act on British imports for domestic consumption when it was implemented in January 1888. I digitised monthly *Economist* data from December 1885 to December 1889, covering the two years prior to the introduction of the Merchandise Marks Act and two years after. The data covers eleven product categories and amounts to 576 observations. As can be seen from Figures 2 and 3 below, it is difficult to discern a material short run impact of the Act on imports of manufactured articles or the *share* of manufactured imports in total imports. In fact, the growth rate of imports of manufactured imports increased in the two years following the introduction of the Merchandise Marks Act.

¹³³ It was, in fact, unclear whether the Merchandise Marks Act applied at all to primary goods. The Treasury convinced British customs authorities to disapply the provisions of the Act to bales of wool from Australia, for example.

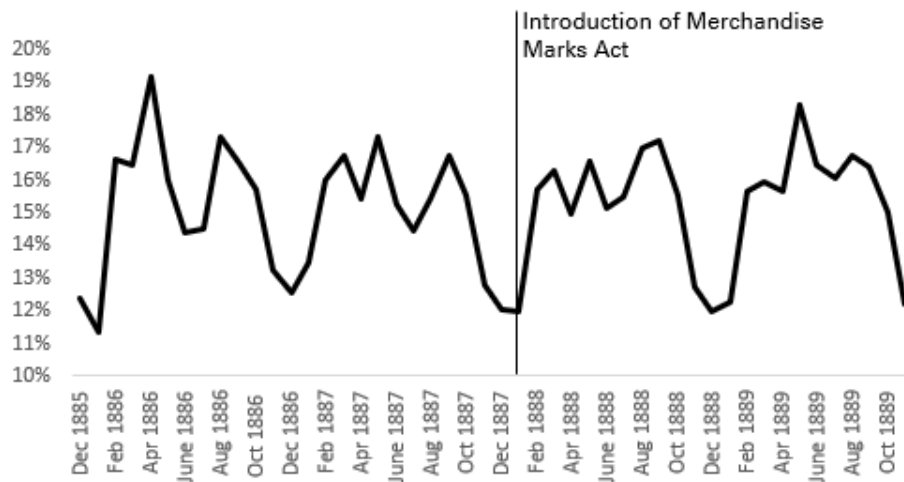
¹³⁴ The Monthly Trade Supplement was an addendum to issues of *The Economist* published at a monthly frequency and containing detailed data on British imports and exports, as well as qualitative descriptions of the state of British trade

Figure 2: Manufacturing imports, yoy change, Britain



Source: Economist Digital Archive, editions December 1885 - December 1889

Figure 3: Share of manufacturing imports as % total British imports



Source: Economist Digital Archive, editions December 1885 - December 1889

While descriptive evidence does not suggest much of an effect, I run a statistical model to verify this. The model uses a simple univariate time series equation to forecast British imports. To this, I add dummy variables to capture the implementation of the Merchandise Marks Act in a similar fashion to scholars such as Romer and Romer that have sought to determine the impact of a sudden policy shock on economic variables.¹³⁵ The model is the following:

¹³⁵ Romer, C. and Romer, D. “Does Monetary Policy Matter? A New Test in the Spirit of Friedman and Schwartz.” NBER Working Paper No. 2966, (May 1989), p.26

$$Y_t = \beta_0 + \beta_1 T + \beta_2 D18881889_t + \sum_{i=1}^{11} \beta_i M_{it} + u_t$$

Where Y_t is equal to the log value British imports, $\beta_1 T$ is equal to a time trend, $\beta_2 D18881889_t$ is a dummy variable running from January 1888 to December 1889 to capture the impact of the Merchandise Marks Act, $\sum_{i=1}^{11} \beta_i M_{it}$ is a series of monthly dummy variables designed to capture seasonality in imports. To discern whether the Merchandise Marks Act could have had only a short-term impact on trade, in a second specification of the regression I employ a dummy variable $\beta_3 D1888_t$ for the year 1888 only. I run these models across five import categories: total imports, manufactured goods, tobacco, duty free food and drink and raw materials, and also on manufactured products as a share of British imports.

Before running the model, I conduct augmented Dickey Fuller tests to test the log import series for stationarity.¹³⁶ Because many of the import categories appear to trend upward over time, I test whether each is trend stationary. The p values reported from these tests suggest that total imports, manufacturing imports, duty free food and drink imports and the share of manufacturing in total imports are trend stationary. By contrast, I cannot reject the null hypothesis of a unit root for tobacco imports and raw material imports and therefore the results for these categories should be treated with caution. The results are presented below in table 3.¹³⁷

As the descriptive evidence suggests, the Merchandise Marks Act did not appear to have a material effect on British trade. Coefficients on the 1888-1889 dummy variable are positive in the case of total imports, manufacturing imports and raw materials imports, although not statistically significant (the results are provided in Table 3(a)). Coefficients on the dummy variable are negative for the other categories, but again not statistically significant. If anything, these results imply that British manufacturing imports increased relative to their pre-1888 trend

¹³⁶ Woolridge, J., *Introductory Econometrics: A Modern Approach*, Cengage Learning, Boston (2018) p.575

¹³⁷ Also presented are Durbin Watson test statistics for serial correlation. All import categories aside from tobacco do not display serial correlation of error terms.

after the Act was implemented.¹³⁸ Interestingly, however, the coefficients on dummy variable only running in 1888 are negative and statistically significant for manufacturing, tobacco, and raw material imports (Table 3(b)). This would be consistent with the hypothesis that the Merchandise Marks Act had an initially negative short run impact on British imports which subsequently reversed as exporters adjusted to the new regime.¹³⁹

¹³⁸ A potential confounding factor is the business cycle. Recent estimates of British GDP provided by Solomou and Thomas show growth accelerating in the last two years of the 1880s, which could explain the increase in British manufacturing imports. The business cycle is controlled for in the next set of regressions in the section below. Solomou, S. & Thomas, R. "Feinstein Fulfilled: Updated Estimates of UK GDP 1841-1920," ESCoE Technical Report 04, (August 2019), p.35

¹³⁹ As monthly dummies removed 11 degrees of freedom for the regression, the model was re-estimated without the monthly dummies. This did not change the conclusions.

Table 3 (a): Regression table of the impact of Merchandise Marks Act on British imports using high frequency data

Dependent variable is:	Total imports	Manufacturing imports	Tobacco imports	Duty free food and drink	Raw Materials	Manufacturing share
Constant	17.247*** (0.034)	15.191*** (0.033)	12.407*** (0.139)	16.049*** (0.334)	14.893*** (0.059)	0.128*** (0.005)
Time trend	0.004*** (0.001)	0.004*** (0.001)	0.006 (0.006)	0.005*** (0.002)	0.003 (0.002)	-0.000 (0.000)
1888-1889 dummy	0.014 (0.274)	0.012 (0.029)	-0.177 (0.159)	-0.006 (0.048)	0.045 (0.063)	-0.000 (0.004)
N	48	48	48	48	48	48
R squared	0.798	0.862	0.693	0.721	0.882	0.847
DW test statistic	1.882	1.272	0.601	1.692	0.807	1.819
Monthly dummies	Yes	Yes	Yes	Yes	Yes	Yes
Dickey Fuller test statistic	-5.105	-4.303	-3.002	-5.296	-2.393	-3.972
MacKinnon <i>p</i> value	0.0001	0.0031	0.1315	0.0001	0.3835	0.0016

*Robust standard errors. All dependent variables expressed as log levels except for manufacturing share. Standard errors are noted in parentheses. * indicates statistical significance at the 10% level, ** at the 5% level, and *** at the 1% level.*

Table 3 (b): Regression table of the impact of Merchandise Marks Act on British imports using high frequency data

Dependent variable is:	Total imports	Manufacturing imports	Tobacco imports	Duty free food and drink	Raw Materials	Manufacturing share
Constant	17.239*** (0.029)	15.184*** (0.029)	12.482*** (0.119)	16.051*** (0.029)	14.868*** (0.057)	0.128*** (0.004)
Time trend	0.005*** (0.001)	0.005*** (0.000)	0.002 (0.002)	0.005*** (0.001)	0.006*** (0.001)	-0.000 (0.000)
1888 dummy	-0.021 (0.015)	-0.031** (0.014)	-0.231** (0.087)	-0.024 (0.026)	-0.078*** (0.026)	-0.002 (0.002)
N	48	48	48	48	48	48
R squared	0.804	0.875	0.746	0.728	0.897	0.849
DW test statistic	1.939	1.416	0.766	1.736	0.885	1.833
Monthly dummies	Yes	Yes	Yes	Yes	Yes	Yes
Dickey Fuller test statistic	-5.105	-4.303	-3.002	-5.296	-2.393	-3.972
MacKinnon p value	0.0001	0.0031	0.1315	0.0001	0.3835	0.0016

*Robust standard errors. All dependent variables expressed as log levels except for manufacturing share. Standard errors are noted in parentheses. * indicates statistical significance at the 10% level, ** at the 5% level, and *** at the 1% level.*

The Impact of the Act on British Imports: Board of Trade Data

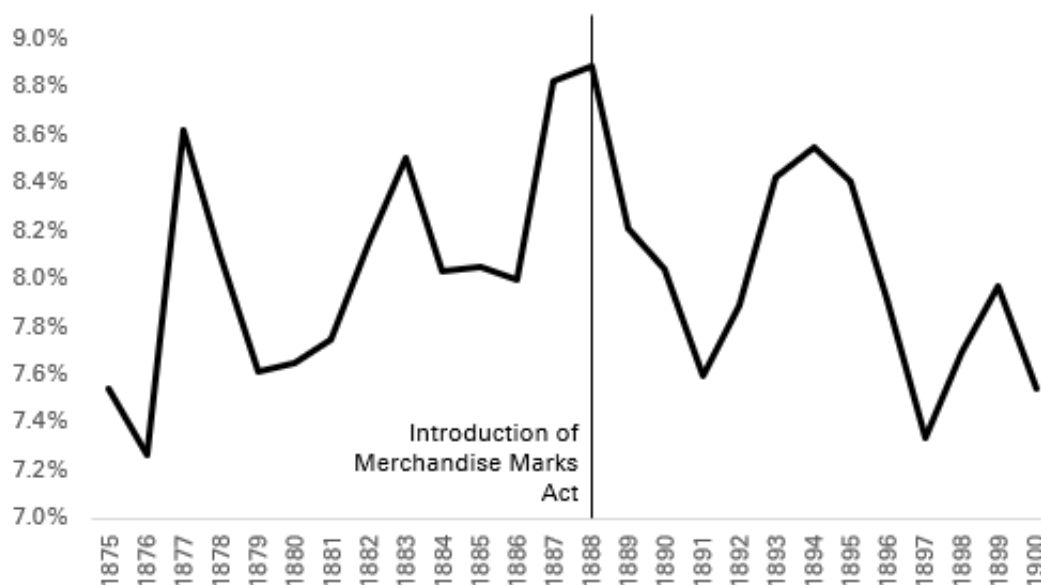
While the model above suggests that the Merchandise Marks Act had at most only a short run negative impact on British imports, to conclude it had little impact on British trade would be naïve. First, aggregate import data like that above does not capture the fact the Act was focused on imports from certain countries such as Germany. Second, the model above does not take account of other factors that could have influenced British imports at the time, such as the state of the global business cycle or relative trade costs.

To assess the impact of the Merchandise Marks Act on British imports while taking account of these factors, I focus on British imports from Germany and Belgium. As I have already discussed, Germany was the primary target of the Act, while Belgium also saw a substantial proportion of its exports stopped relative to its share of British trade. If the Act had any effect on British imports, it should show up in imports from these two countries.

Data on total British imports from Germany and as a share of world imports is presented in figure 4.¹⁴⁰ They do not appear to show a clear impact on British imports after its introduction, although the German share did fall somewhat in the years 1888-1891.

¹⁴⁰ Germany's share of UK imports is calculated from the *Board of Trade Annual Statement of British Trade with Foreign Countries and Colonial Possessions* from the years 1879, 1882, 1887, 1891, 1896 and 1900. See data appendix.

Figure 4: British imports from Germany as a share of total imports



Source: Board of Trade, *Annual Statement of the Trade of the United Kingdom with Foreign Countries and British Possessions*

To formally test whether British imports from Germany and Belgium were affected by the Act it is necessary to turn to trade theory. There is a substantial literature on modelling bilateral trade flows. A common approach is to model imports as a function of the importing country’s demand, the exporting country’s supply, and the relative costs of trade.¹⁴¹ Pinning down the relative costs of trade, not just in terms of the trade costs between partners, but these bilateral trade costs relative to the trade costs each partner faces against the rest of the world – known as multilateral resistance terms – has proved a challenge in empirical studies.¹⁴² One approach is to account for these costs using country fixed effects in a panel data setting.¹⁴³ Country fixed effects capture time invariant trade costs between trading partners such as distance, land borders and language as well as other unobserved characteristics. In a panel setting, time fixed effects can also be

¹⁴¹ Bacchetta, M., Beverelli, C., Cadot, O., Fugazza, M. Grether, J-M., Helble, M., Nicita, A. and Piermartini, R, *A Practical Guide to Trade Policy Analysis*, UN/World Trade Organization, (New York, 2012), p.104

¹⁴² Miao, Z., Wu, X. and Yu, Jinping, “Direct and Relative Effects of the Import Tariff: Estimation Using the Chinese Industrial Level Data,” MPRA Paper No.88056, (July, 2018), p.3

¹⁴³ Yotov, Y, Piermartini, R, Montiero, J-A., and Larch, M., *An Advanced Guide to Trade Policy Analysis: The Structural Gravity Model*, UN/World Trade Organization, (New York, 2019), p.19

deployed to take account of time varying characteristics that affect all trading partners, such as the state of the global business cycle.

As I am focusing on whether British imports from two countries – Germany and Belgium – were impacted by a policy change – the Merchandise Marks Act – over time, this approach is appealing. By using a panel of British imports by country, I can account for multilateral resistance using country fixed effects, and factors such as the global or British business cycle, using time fixed effects. Time varying bilateral trade costs that vary by country are captured by relative export prices. I compile data on British imports by major trading partner from 1875-1900, the export prices of British trading partners, and a measure of the economic openness of British trading partners. This economic openness variable is designed to capture other time and country varying characteristics in exporters that originate from the supply side, such as shifts in economic composition in favour of the export industry.¹⁴⁴

British imports by country are collected from the Board of Trade’s Annual Statement of British Trade with Foreign Countries and Colonial Possessions which I digitized by hand.¹⁴⁵ For export prices, I calculated implied export price indices from the Federico-Tena World Trade Historical Database.¹⁴⁶ Economic openness is also collected from the Federico Tena database and is defined as the ratio of total exports to GDP.¹⁴⁷

The model I run is:

$$Y_{it} = \beta_0 + \beta_1 P_{it} + \beta_2 O_{it} + \beta_3 DM_{it} + \alpha_i + \zeta_t + u_{it}$$

¹⁴⁴ Due to Britain’s support of free trade, no tariffs were introduced on imports during the period in question (except for the policy intervention of interest – the Merchandise Marks Act) and therefore tariffs do not need to be accounted for in the model.

¹⁴⁵ I collected data on British imports from 11 countries – the United States, Belgium, France, Australia, Germany, China, Russia, Holland, Egypt, Canada and India representing 75% total British imports

¹⁴⁶ Implied export prices were calculated as the ratio of current to constant prices at 1913 borders. Federico, G. and Tena-Junguito A. “World trade, 1800-1938: a new synthesis,” *Revista de Historia Económica-Journal of Iberian and Latin America Economic History*, Volume 37, Issue.1, (March 2019)

¹⁴⁷ *Ibid*

Where Y_{it} is the log value of British imports from exporter i and time t , P_{it} is export prices of exporter i at time t , O_{it} is the economic openness of exporter i at time t , $\beta_3 DM_{it}$ is a dummy variable that switches on for Germany and Belgium from 1888-1893, in other words for the five years after the Merchandise Marks Act was implemented. Finally, α_i and δ_t capture time fixed effects and country fixed effects respectively.¹⁴⁸

Applied to aggregate British imports by country, the above model should capture the effect of the Merchandise Marks Act on imports from Germany. As I have argued above, however, the treatment intensity of the Act differed when it came to categories of imports, with manufactured goods frequently stopped by British customs, perishable food and drink also stopped if less frequently, while primary commodities such as metals or coal were not stopped. To take account of this difference in treatment intensity, I zero in on specific product categories that the customs data suggest were frequently stopped. The Board of Trade provided a detailed breakdown of British imports by country and commodity, which has been used by scholars such as Chadha et al to provide evidence on the impact of tariffs on British trade.¹⁴⁹ An advantage of using a commodity by commodity approach is that goods are closer substitutes for one another. This can overcome aggregation bias and provide a more precise estimate of the impact of a policy change on trade.¹⁵⁰

I therefore run the same panel model as above on six different product categories that correspond to goods that were frequently stopped by customs in Table 2 – China and Earthenware, Books, Glass Manufactures, Wine, Toys and Woollen Manufactures. Again, I digitize the data by hand from the original trade returns.

¹⁴⁸ An alternative specification of the regression would be to use GDP rather than economic openness to control for time varying supply side factors from exporters. As a robustness check, I therefore replaced openness with GDP. This did not change the conclusions of the regressions.

¹⁴⁹ Chadha, J., Lennard, J., Solomou, S., and Thomas, R. “Exchange Rates, Tariffs and Prices in 1930s’ Britain” in *Keynes’s Economic Consequences of the Peace*, eds. Clavin, P., Corsetti, G., Obstfeld, M., and Tooze, A. (Cambridge University Press, forthcoming)

¹⁵⁰ McDaniel, C. and Balistieri, E. “A Discussion on Armington Trade Substitution Elasticities,” US International Trade Commission Office of Economics Working Paper, No. 2002-01-A (December 2001), p.4

The motivation for choosing these categories over other goods that were also frequently stopped is due to data availability. For example, the product category Cutlery was not enumerated in the trade returns for Germany. Another important factor was the availability of both volume and value data for imports. The trade returns do not enumerate both volume and value data for each product category. This makes it impossible to construct price series for all commodities, which I do by simply dividing the value of imports by the volume, thus deriving unit values.¹⁵¹ A key difference in the commodity level regressions versus the aggregate level is therefore that the dependent variable refers to the *volume* of imports, rather than the value. This is another important advantage as volumes are conventionally used in estimating trade regressions. I include two categories, Toys and Woollen Manufactures, even though volume data was not available. This is because these two categories were frequently stopped and I thought it desirable to test for an effect, with the proviso of being unable to control for prices.

The sample of countries in each panel regression differs (with the exception of Germany's inclusion), reflecting the availability of commodity level data by country in the Board of Trade returns. In each regression I have endeavoured to include as representative a sample of British imports as possible. My sample coverage for aggregate level British imports is 75% over the sample period. For earthenware and porcelain, for example, it is 93%. A fuller discussion of the data is provided in the appendix.

The results of the regressions are presented in table 4.¹⁵² Reassuringly, the coefficient on prices is correctly signed for aggregate imports and correctly signed for all but one category (books) at the commodity level, with the coefficients generally larger at the commodity level, as should be expected. For imports of glass, prices are statistically significant. The coefficient on the economic openness of exporters is also correctly signed at the aggregate level, and statistically

¹⁵¹ In line with Chadha et al (forthcoming)

¹⁵² Robust standard errors were used for regressions at both the aggregate and the commodity level. This is because the error terms displayed serial correlation.

significant at the product level for books.¹⁵³ The dummy variable capturing the effect of the Merchandise Marks Act on German imports is positively signed at the aggregate level and for all but one commodity (glass manufactures) and in the case of wine, statistically significant. This suggests that, if anything, British imports from Germany and Belgium *increased* after 1888, when controlling for other factors. This lends support to the view of contemporaries that the Act may have backfired by providing German imports free advertising.

¹⁵³ The coefficients for prices and economic openness were statistically significant using normal standard errors at the 5% level.

Table 4: Dependent variable is log of

	Value of British imports of all commodities	Volume of British imports of earthenware/porcelain	Volume of British imports books	Volume of British imports glass manufactures	Volume of British imports wine	Value of British imports toys	Value of British imports woolen manufactures
Prices	-0.337 (0.334)	-0.412 (0.209)	0.035 (0.029)	-0.421** (0.124)	-3.065 (2.253)		
Openness of Trading Partners	0.932 (0.698)	-1.412 (12.469)	14.33** (2.459)	-2.206 (4.009)	-1.189 (1.146)	-3.001 (7.493)	2.361 (3.457)
Merchandise Marks Act Dummy	0.011 (0.038)	0.116 (0.393)	0.159 (0.118)	-0.026 (0.155)	0.191* (0.089)	0.152 (0.276)	0.366 (0.182)
Constant	17.017*** (0.409)	11.928** (2.138)	6.852** (0.357)	12.798*** (1.036)	14.759*** (0.809)	12.003*** (0.534)	12.203*** (0.373)
N	234	76	64	76	133	76	114
R squared	0.083	0.045	0.389	0.558	0.016	0.002	0.001
Country fixed effects	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Year fixed effects	Yes	Yes	Yes	Yes	Yes	Yes	Yes
No. countries	11	5	4	4	8	4	6
Share of trade represented by sample	75%	93%	73%	N/A	97%	98%	99%
Years	1875-1900	1878-1896	1878-1896	1878-1896	1878-1896	1878-1896	1878-1896
Robust standard errors	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Standard errors are noted in parentheses. * indicates statistical significance at the 10% level, ** at the 5% level, and *** at the 1% level.

Impact of the Act on the Transshipment Trade: Evidence from India

Merchants and shippers complained that the Merchandise Marks Act had a negative impact on their industries, by re-routing the entrepot trade away from Britain and encouraging direct German trade links with foreign markets.

To test this final claim, I focus on trade with India. India was by some distance the largest colonial market, and the single largest export market, for Britain over the period, making up just over 13% of total British exports in 1890 as compared to 12.2% for the United States, Britain's next largest export partner.¹⁵⁴ Complaints from British merchants also singled out India as a location that the Act had diverted the British transshipment trade away from. They claimed the country had seen direct trading links with foreign countries develop as a result of the Act. Indeed, the Colonial Government notes this directly in 1890.¹⁵⁵ Fortuitously, from 1867 the Colonial Administration in Calcutta presented detailed statistics on Indian trade with Britain and other markets contained in the *Annual Statement of the Trade and Navigation of British India with Foreign Countries*. These provided data on Indian exports by product and was the most detailed set of trade statistics compiled for any British colonial market.¹⁵⁶

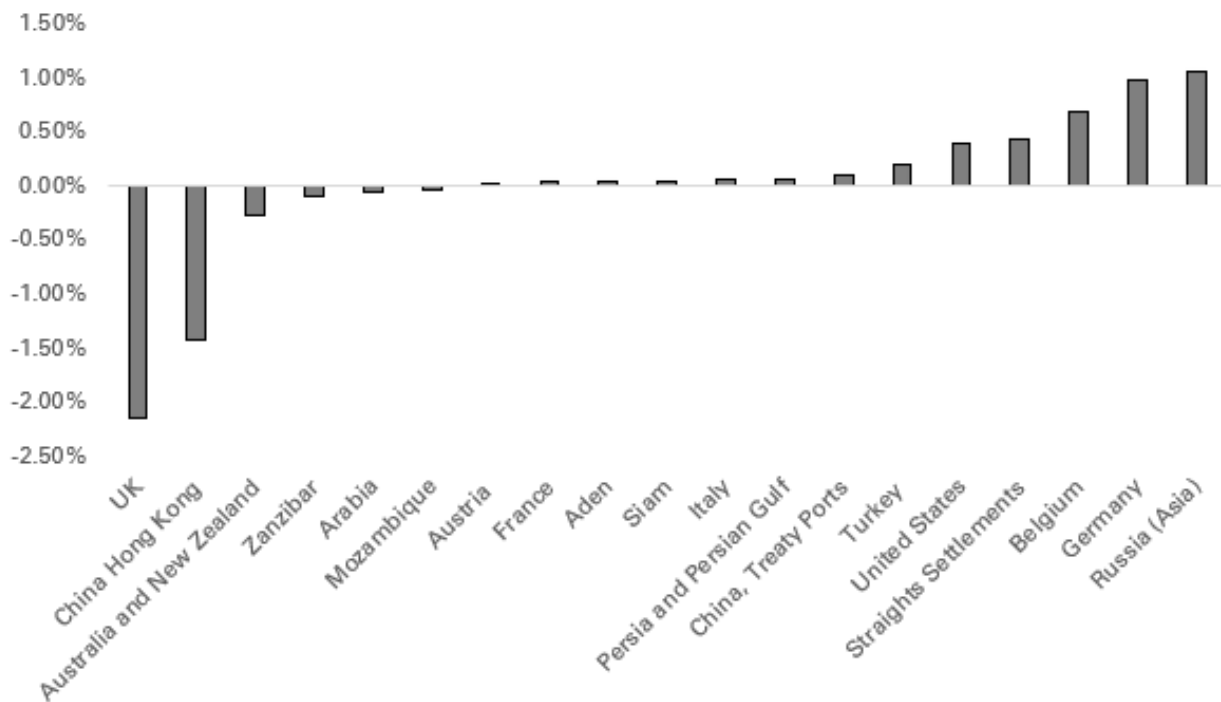
Descriptive evidence supports the claims of merchants and shippers. Figure 5 shows the change in Indian import share by country in the three years preceding the Merchandise Marks Act and the three years after its implementation. Britain's market share of Indian imports declined significantly (-2.15%), while the countries that were most affected by the Act, based on the number of stoppages by British customs above, all saw their share of Indian imports increase, most notably Germany (0.98%) and Belgium (0.69%).

¹⁵⁴ Varian, B. "The Course and Character of Late Victorian Exports," LSE e-thesis, (2017) p.27

¹⁵⁵ *Statement of the Trade of British India with British Possessions and Foreign Countries For the Five Years 1890-91 to 1894-5*, Eyre and Spottiswoode, 1895, London, p.14

¹⁵⁶ See: Sugihara, K. "Notes on the Trade Statistics of British India," Osaka University, last accessed 17th July 2021, [weblink](#) for a fuller description of the Indian trade statistics

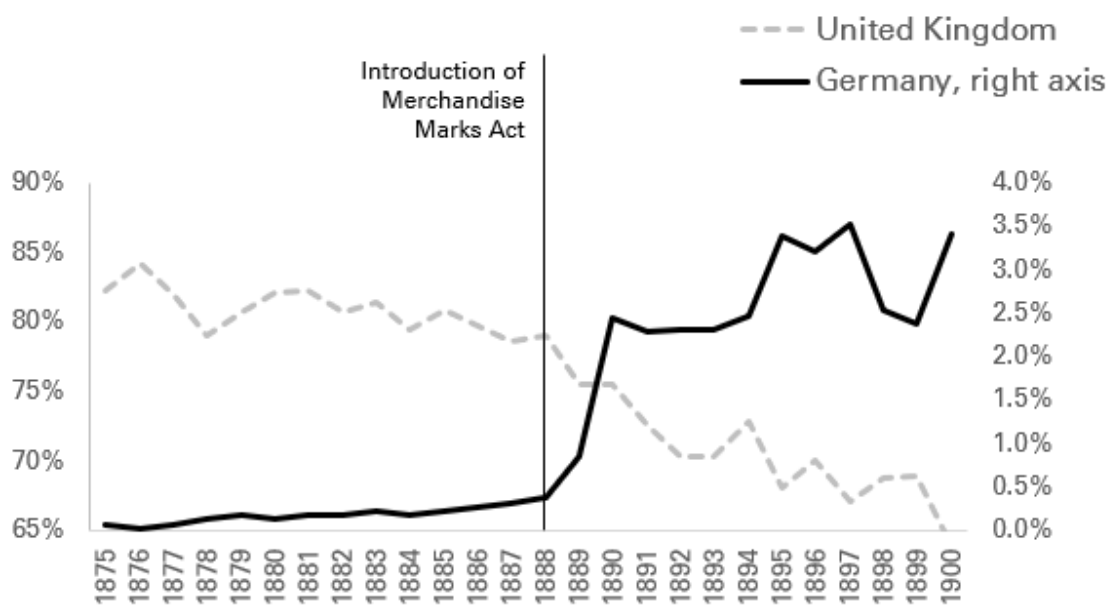
Figure 5: Change in share of Indian imports 1885-87/1888-90



Source: *Statement of the Trade of India with British Possessions and Foreign Countries*

This change is even more pronounced when comparing a time series of Germany and Britain's share of Indian imports. As figure 6 shows, the share of Indian imports from Germany increased rapidly in the years after 1888, from less than 0.31% in that year to 2.5% in the year 1890. In value terms, the increase was in the region of an order of magnitude: from 1,944,930 rupees in 1887 to 16,916,490 rupees in 1890. At the same time, British export share to India declined from 79% in 1887 to 70% by 1892.

Figure 6: Share of Indian imports



Source: *Statement of the Trade of British India with British Possessions and Foreign Countries*

While this provides strong graphical evidence the Merchandise Marks Act may have negatively impacted British trade with India in favour of Germany, it is again necessary to control for variables that could have impacted the relative share of Indian imports. The increasing integration of global markets and fall in trade costs could have allowed foreign exporters such as Germany to make inroads into Indian trade.¹⁵⁷ British exports also became less competitive over this period.¹⁵⁸

I take a similar panel approach to the one when I investigated the possible impact of the Act on British imports from Germany. Again, I digitize data on Indian imports by major trading partner between 1875-1900, collect export prices and a measure of economic openness. And, as before, I am particularly interested in products that appear to have been intensively affected by the Merchandise Marks Act. The granularity of the Indian trade returns allows me to conduct a similar

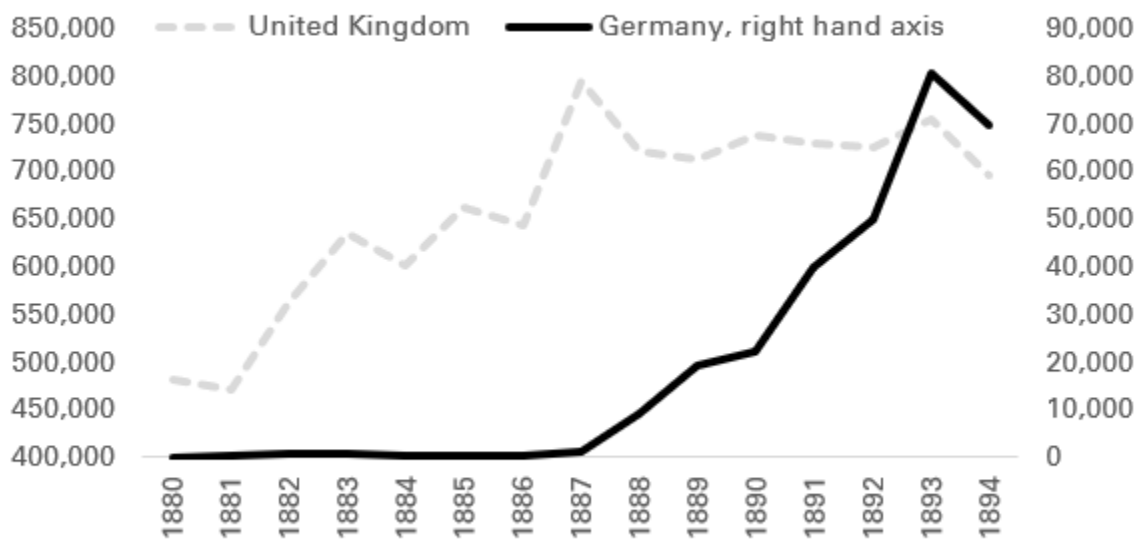
¹⁵⁷ Jacks, D. "What drove 19th century commodity market integration?" *Explorations in Economic History*, 43 (2006), p.405

¹⁵⁸ Aldcroft, D. "The Entrepreneur and the British Economy, 1870-1914," *The Economic History Review*, Vol 17, No. 1, (1964), p.113

exercise to that done for Britain. A further advantage is that, like Britain, India pursued a policy of free trade in the late nineteenth century, meaning that the effects of tariffs do not need to be accounted for in the analysis of Indian imports.¹⁵⁹

At this point, it is worth highlighting graphical evidence that suggests the Merchandise Marks Act was extremely impactful on Indian imports in the categories that were most stopped by British customs. Most striking of all are the rapid rises in manufactured goods imports from Germany after 1887. Imports of apparel, for example, increased from a negligible amount before 1888 to close to 10% of the British market share. A similar pattern is shown by imports of cutlery and porcelain (see figures 7, 8 and 9 below).

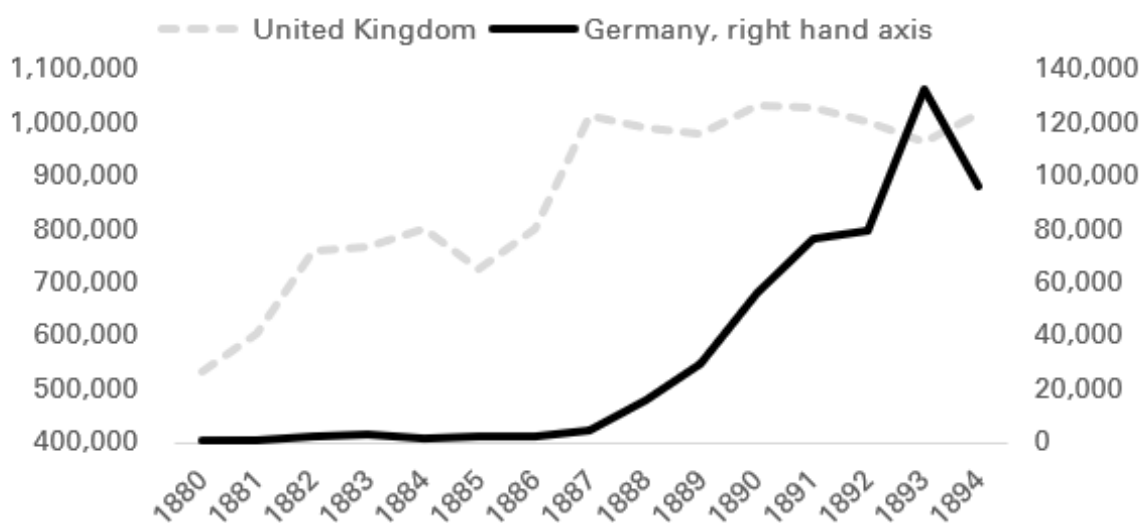
Figure 7: Indian imports, apparel, 10s rupees



Source: *Statement of the Trade of British India with British Possessions and Foreign Countries*

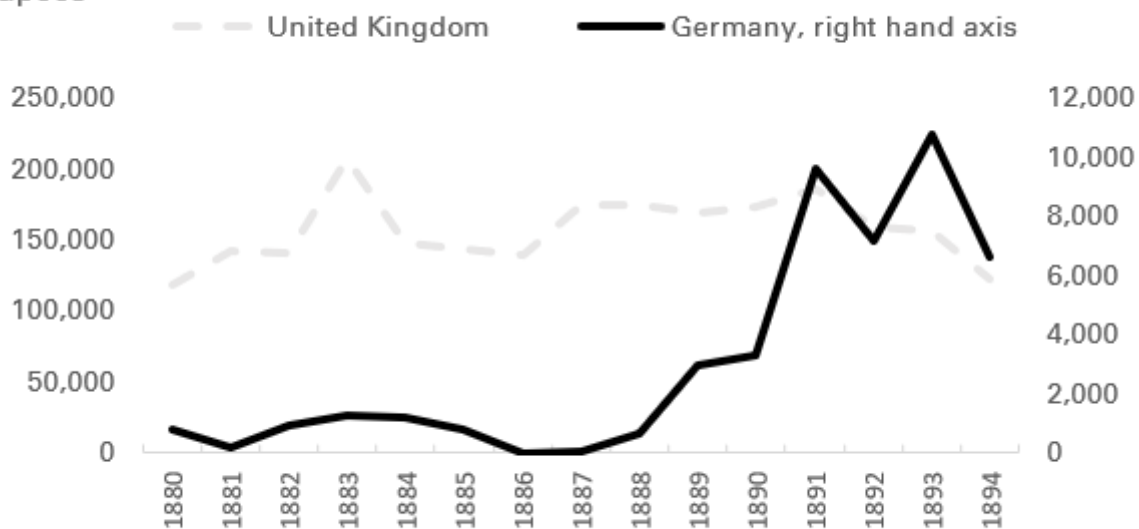
¹⁵⁹ Rothermand, D. *An economic history of India: from pre-colonial times to 1991*, Routledge, (New York, 1991) p.50

Figure 8: Indian imports, hardware and cutlery, tens rupees



Source: Statement of the Trade of British India with British Possessions and Foreign Countries

Figure 9: Indian imports, earthenware and porcelain, tens rupees



Source: Statement of the Trade of British India with British Possessions and Foreign Countries

One distinction between these regressions and those above for British imports from Germany is that I also include a dummy variable for Britain that switches on after 1888 to capture the potentially negative effect of trade diversion to Germany on British exports. As before, at the aggregate level, the dependent

variable is the *value* of British imports while at the commodity level it is the *volume*.¹⁶⁰

When it comes to regressions at the commodity level, my sample period is the year 1880 to 1895. Again, the reason for this sample period is due to data limitations. Before the year 1880, data on trade between Germany and India by product category is scarce. The graduality of product categories enumerated in the trade returns also deteriorates after 1895.

The results are presented in table 5. As before, coefficients on relative prices are correctly signed, and statistically significant at the product level for spirits. The coefficient on openness is also correctly signed.¹⁶¹ The dummy variable that switches on for Germany and Belgium is positive and statistically significant at the aggregate level and product level for Indian imports of wine, spirits, toys and cutlery suggesting that the Merchandise Marks Act had a positive impact on German exports to India. The dummy variable that switches on for Britain after 1888 is positive but very small and statistically insignificant at the aggregate level, but negative at a commodity level and statistically significant for imports of woollen manufactures suggesting, as per the descriptive evidence, that British trade may have been negatively impacted by the Act.

¹⁶⁰ As with the regressions on British imports, I include two categories (toys and cutlery) where volume data is not available but where it is desirable to test for an effect given these categories were frequently stopped.

¹⁶¹ Again, robust standard errors are included at an aggregate and commodity level to take account of serial correlation of error terms.

Table 5: Dependent variable is log of

	Value of Indian imports of all commodities	Volume of Indian imports of wine	Volume Indian imports of woollen piece goods	Volume of Indian imports of spirits	Value of Indian imports of toys	Value of Indian imports cutlery
Prices	-2.222 (2.664)	-2.176 (1.389)	-2.934 (4.039)	-2.016** (0.556)		
Openness of trading partners	1.208 (1.319)	1.528 (5.260)	67.757 (35.417)	26.499 17.424		
Merchandise Marks Act Dummy Germany + Belgium	1.794** (0.562)	0.691** (0.196)	0.283 (0.383)	1.018** (0.297)	1.867** (0.555)	1.566*** (0.321)
Merchandise Marks Act Dummy Britain	0.042 (0.103)	-0.039 (0.249)	-0.783** (0.224)	-0.211 (0.3456)	-0.064 (0.183)	-0.232 (0.249)
Constant	14.187*** (2.781)	11.244*** (1.301)	6.814 (4.022)	8.828** (2.265)	7.037 (0.546)	7.553 (0.494)
N	260	75	74	86	120	150
R squared	0.079	0.367	0.095	0	0.085	0.092
Country fixed effects	Yes	Yes	Yes	Yes	Yes	Yes
Year fixed effects	Yes	Yes	Yes	Yes	Yes	Yes
No. countries	10	8	6	6	8	10
Share of trade represented by sample	85%	93%	99%	75%	98%	99%
Years	1875-1900	1880-1894	1880-1894	1880-1894	1880-1894	1880-1894
Robust standard errors	Yes	Yes	Yes	Yes	Yes	Yes

Standard errors are noted in parentheses. * indicates statistical significance at the 10% level, ** at the 5% level, and *** at the 1% level.

Robustness Checks and Discussion

In this section I undertake robustness checks on the models. One consideration was whether the effect of the Merchandise Marks Act could have been better identified using a difference in difference strategy. While I experimented with this methodology, and initial results were promising, I ultimately decided against this approach. First, there is little precedent in using a difference in difference strategy to assess the effects of a policy change on trade.¹⁶² While Lloyd and Solomou adopt difference in difference to assess the effect of the 1932 General Tariff on industries, they examined productivity and output growth, not trade flows.¹⁶³ Second, an important identifying assumption of a difference in difference approach is that the counterfactual trend of ‘control’ and ‘treatment’ groups would have been similar absent a policy change.¹⁶⁴ In the case of late nineteenth century trade, this assumption does not hold. Germany and Belgium, as among the few industrialising nations of the time, would have been expected to make inroads into Indian imports in the absence of the Merchandise Marks Act *relative* to other trade partners, as I discuss in more detail below.

A second consideration is whether to use random effects or fixed effects in the panel model. Random effects are more appropriate if the unobserved time invariant characteristics are not correlated with the other independent variables.¹⁶⁵ I use fixed effects for each panel regression because there is strong reason to believe they are more appropriate from a theoretical perspective. Unobserved time invariant characteristics that are controlled for by fixed effects may well be correlated to the independent variables. For example, geographical

¹⁶² For example, difference in difference is not included among the estimation techniques outlined in Yotov, Y, Piermartini, R, Montiero, J-A., and Larch, M., *An Advanced Guide to Trade Policy Analysis: The Structural Gravity Model*, UN/World Trade Organization, New York (2019), p.19

¹⁶³ Lloyd, S. & Solomou, S. “The impact of the 1932 General Tariff: a difference in difference approach,” *Cliometrica*, 14, (2020)

¹⁶⁴ Angrist, J. & Pischke, J-S, *Mostly Harmless Econometrics*, Princeton University Press, (Princeton, 2009), p.230

¹⁶⁵ Woolridge, J. *Introductory Econometrics: A Modern Approach*, Cengage Learning, Boston (2018) p.441

size could be correlated to prices. The use of fixed effects is in line with other authors that have sought to model bilateral trade flows in a panel data setting.¹⁶⁶

A third consideration is the fact that the import values and volumes I use as dependent variables are not stationary. Woolridge notes that with non-stationary data, where the t is relatively large in panel data, the spurious regression problem can arise.¹⁶⁷ I therefore run a regression in first differences at the aggregate level for imports from India and Britain as a robustness check in the manner of Baier and Bergstrand.¹⁶⁸ Again, these regressions do not show the Merchandise Marks Act had a negative impact on British imports from Germany and Belgium but do show a statistically significant increase in Indian imports from Germany and Belgium.¹⁶⁹

As the dependent variable is expressed as a logarithm, the coefficients on the dummy variables above can be transformed to interpret them as the percentage increase or decrease in trade caused by the introduction of the Merchandise Marks Act. The results indicate that the impact of the Act caused a 500% increase in German exports to India.¹⁷⁰ The magnitude seems very large, but in some respects is intuitive as German and Belgian exports to India before the Act was passed were negligible, before exploding higher. One might attribute the size of the effect to the establishment of commercial ties which lifted trade in a non-linear fashion.

Nevertheless, it is worth considering whether omitted variables could be responsible for the surge in Indian imports from Germany. One complaint from shippers was subsidies provided by foreign commercial rivals to their shipping lines.¹⁷¹ Data on German ships entering into Indian ports is provided by the Indian

¹⁶⁶ Baier, S. and Bergstrand J. "Do free trade agreements actually increase members' international trade?" *Journal of International Economics*, 71, (2007) p.84

¹⁶⁷ Woolridge, J., *Introductory Econometrics: A Modern Approach*, Cengage Learning, Boston (2018) p.440

¹⁶⁸ Baier, S. and Bergstrand J. "Do free trade agreements actually increase members' international trade?" *Journal of International Economics*, Volume 71, Issue 1, (2007) p.86

¹⁶⁹ These results are reported in the appendix

¹⁷⁰ A 95% confidence interval of the effect on German and Belgium exports is 68% to 2045%

¹⁷¹ *Report from the Select Committee on Merchandise Marks Act, 1887*, Henry Hansard, July 1890, p.146

trade data. The total tonnage of German vessels entering at Indian ports increased from 0.2% of the total in 1888 to above 4% in 1894.¹⁷² It is therefore possible that subsidies to German lines were the primary driver of the increase in German trade with India rather than trade diversion effects.

German preferential treatment for its shipping industry dates back to 1879 with Chancellor Bismarck exempting the shipbuilding industry from tariffs. Significant financial support to German shipping began in April 1885, intended for steamers sailing to Australia and East Asia.¹⁷³ These timings do not fit with the argument that shipping subsidies was the cause of German exports surging after 1887. Nevertheless, in 1890 the German government did provide a subsidy to the Oest-Afrika Line from Hamburg to the ports of East Africa. This line stopped off at Bombay. To control for this possibility, I include another dummy variable that switches on for Germany after 1891 when the Deutsche Ost-Afrika line began its operations. The results show that while the coefficient from the Merchandise Marks Act dummy declines somewhat, it continues to have an upward effect on German exports that is both large and statistically significant.¹⁷⁴

Did German exports to India increase because of the diminishment of the British trans-shipment trade and the establishment of direct commercial relations between Germany and India, as contemporary accounts suggest? These claims chime with descriptive evidence which shows the share of German exports to be transhipped through Britain.¹⁷⁵ As figure 10 shows, these declined noticeably after the year 1887, falling from 16% to 6% by 1895, before gradually recovering. It is thus possible that after establishing direct commercial ties with British colonies, German exports increased still further as colonial consumers became acquainted with the quality of German products.

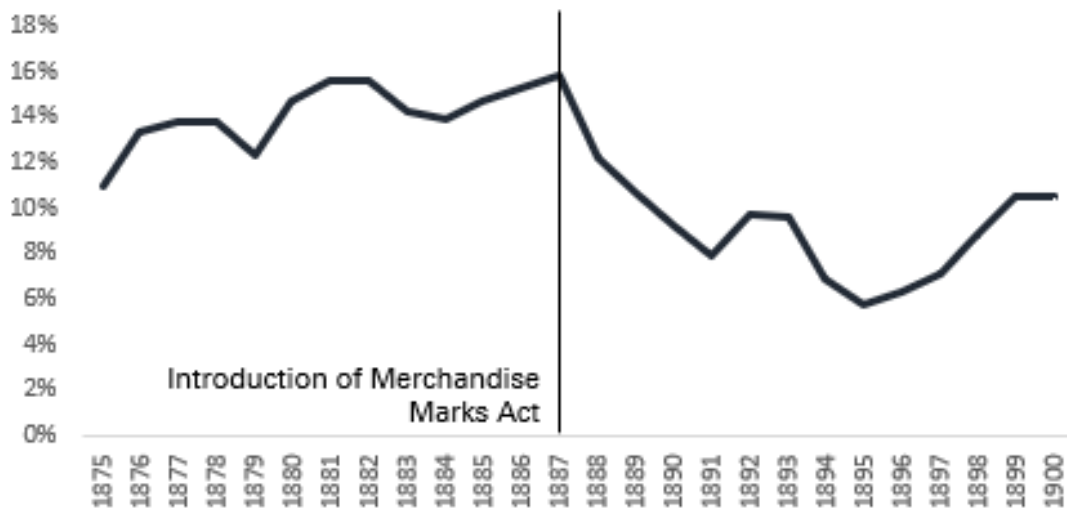
¹⁷² Calculated from *Annual Statement of the Trade and Navigation of British India with Foreign Countries 1890 and 1895*

¹⁷³ Meeker, R. "History of Shipping Subsidies," *Publications of the American Economic Association*, Third Series, Volume 6, Number 3, (August 1905), p.85

¹⁷⁴ The estimated effect on trade declines to a 429% increase. The regression results are presented in the Appendix

¹⁷⁵ Data are taken from the Board of Trade's *Annual Statement of the Trade of the United Kingdom with Foreign Countries and British Possessions*

Figure 10: Transshipment imports from Germany through Britain as a percentage of global total



While it seems the primary channel of trade diversion was through the transshipment trade, it is important to stress that the Act itself was likely endogenous. It was motivated in part by the increasing encroachment of German exports on British industry. Meanwhile, the growth of the German export industry in Asia was being encouraged independently of the passing of the Merchandise Marks Act.¹⁷⁶ The estimates of the effect of the Act on trade is thus likely to be upwardly biased. Despite this, contemporary sources and later scholarship have argued that an important pillar of German success in world markets during the latter half of the nineteenth century was superior commercial prowess including marketing, trade finance and customer service.¹⁷⁷ As such, by providing a sufficient incentive for foreign exporters to overcome initial fixed costs in establishing commercial ties with British colonial markets, the Act was likely to have accelerated the trend.¹⁷⁸ It is also worth considering a counter-factual in

¹⁷⁶ Hoffman, R., *Great Britain and the German Trade Rivalry, 1875-1914* (Routledge, New York, 2021) p.201, Pflanze, O. *Bismarck and the Development of Germany, Volume III: The Period of Fortification 1880-1898*, Princeton University Press, (Princeton, 2014) p.123

¹⁷⁷ Brown, J.C. "Imperfect Competition and Anglo-German Trade Rivalry: Markets for Cotton Textiles before 1914," *The Journal of Economic History*, Vol.55 No.3 (September 1995), p.510

¹⁷⁸ Supporting this line of argument, Jacks and Pendakur see transport links and the fall in maritime shipping costs in the late 19th century as endogenous to demand and growing incomes, Jacks, D. and Pendakur, K. "Global Trade and the Maritime Transport Revolution," NBER Working Paper 14139, (June 2008), p.22

which if the transshipment trade had been exempted from the Act, as shippers and merchants desired, the British transport industry could have benefitted from the increased volume of foreign exports shipped to colonial markets. Transhipped exports fell from an average of 5.3% of total British exports in the twelve years before the Act to 4.4% in the twelve years after, a disappointing performance given that world exports were growing significantly faster than British exports over the period.¹⁷⁹

Conclusion

This dissertation is the first detailed study of one of the most important pieces of British trade legislation in the late nineteenth century. Motivated by the industrial depression of that began in the 1870s, advancing foreign trade competition and greater awareness of the value of brands in an increasingly globalised market place, the 1887 Merchandise Marks Act was an early form of geographical indication legislation. While the economic literature is still ambiguous about whether GIs represent an aid to market efficiency or a barrier to trade, I show from primary sources that the Act was partly inspired by a desire to protect the British manufacturing industry. It was supported by economic interest groups that stood to benefit from brand protection (manufacturers) and opposed by those that stood to lose from an obstacle to open trading arrangements (merchants and shippers). It was passed the same year that controversy over free trade reached its zenith in late Victorian Britain. I find no evidence that it diminished foreign manufacturing imports into Britain, but strong evidence that it resulted in a diversion of Britain's entrepot trade, to the disadvantage of the shipping industry, and benefit of foreign commercial rivals.

¹⁷⁹ Calculated from *Board of Trade Annual Statement of British Trade with Foreign Countries and Colonial Possessions* from the years 1879, 1882, 1887, 1891, 1896 and 1900. Britain's share of world exports fell from 20.6% in 1888 to 17.8% in 1890. Thomas, R and Dimsdale, N (2017) "A Millennium of UK Data", Bank of England OBRA dataset, <http://www.bankofengland.co.uk/research/Pages/onebank/threecenturies.aspx>

What does this study contribute to the three debates raised in the introduction? This dissertation suggests the political economy of British trade policy during the period was more complex than the framework described by Williamson: namely that because of the relatively small share of Britain's agricultural sector, manufacturing interests won out against agrarian ones, ensuring that Britain continued to stick to free trade. Instead, the Merchandise Marks Act is an example of manufacturers lobbying successfully against foreign, principally German, trade competition. This fits with literature that stresses monopolistic competition models of late nineteenth century trade above those of comparative advantage. The Merchandise Marks Act nevertheless achieved broad based political support in Parliament, including from free traders. In part, this is due to the fact that manufacturing interests were aligned behind the legislation (while agrarian interests featured little). The fact that the Act was conceived as a barrier to 'unfair' foreign competition, rather than a tariff, allowed it to evade ideological suspicion as a form of protectionism, at least initially, in the same way that Liberal free traders became willing to support government interventions in trade through state regulation, but not tariffs, in the early 1900s.¹⁸⁰ Cornelius Torp has emphasised fragmented support for free trade within sectors of the German economy in the late nineteenth century, with agrarian interests aligned with manufacturing ones in industries that either suffered from global competition such as the cloth industry, or were able to form effective cartels, even as other sectors such as electronics and dyes benefitted from free access to global markets.¹⁸¹ In Britain, the interests of the manufacturing community intersected with those of fair traders when it came to the Merchandise Marks Act, illustrated by the unlikely political pairing of the Liberal MP Mundella and Conservative fair trader MP Vincent as its primary advocates. The 1887 Merchandise Marks Act might thus be seen as part of a globalisation backlash that crystallised in the late

¹⁸⁰ Howe provides the example of the Liberals' Merchant Shipping Act 1903. Howe, A. *Free Trade and Liberal England*, Oxford University Press, (Oxford, 1998), p.238

¹⁸¹ C. Torp, "Imperial Germany Under Globalisation," in Müller, S-O., and Torp, C. *Imperial Germany Revisited: Continuing Debates and New Perspectives*, Berghahn Books (Berlin, 2011) p.302

1880s and early 1890s with a variety of tariffs being introduced by foreign nations in quick succession.¹⁸²

When it comes to whether free trade policy benefitted the British economy, this dissertation provides support for Broadberry and Craft's argument that any benefits accruing to British manufacturing through the hypothetical adoption of tariffs should be counter-balanced with the costs on Britain's high productivity services sector. It should not be forgotten that Britain's mercantile and shipping industries represented a significant asset for Britain in the late Victorian period. In 1907, Britain's transport, storage and communication sector represented 10% of GVA.¹⁸³ The transport and communication sector represented 4.6% of employment in 1870.¹⁸⁴ Had Britain exempted the transshipment trade from the provisions of the Act, as requested by the shipping and mercantile industries, Britain could have profited from the ongoing expansion of foreign exports through the provision of commercial and shipping services. Instead, policymakers prioritised the interests of manufacturers. Ex post evidence suggests this was misguided. Ex ante, it is also questionable whether such a trade-off was justified. Britain had a huge comparative advantage in shipping. The record of some of the industries the Act sought to protect from German competition is more mixed, according to revealed comparative advantage indicators drawn up by Varian. While Britain enjoyed a comparative advantage in sectors such as steel manufacturers and woollen textiles, other industries such as glass, paper manufactures, and spirits were uncompetitive on global markets.¹⁸⁵

¹⁸² Varian, B. "British Exports and Foreign Tariffs during the Internationalization of Industrialisation," Forthcoming, p.27

¹⁸³ Feinstein, C H (1972), *National income, output and expenditure of the United Kingdom 1855-1965*, Cambridge: Cambridge University Press, in Thomas, R and Dimsdale, N (2017) "A Millennium of UK Data", Bank of England OBRA dataset, <http://www.bankofengland.co.uk/research/Pages/onebank/threecenturies.aspx>

¹⁸⁴ Broadberry, S. "How Did the United States and Germany Overtake Britain? A Sectoral Analysis of Comparative Productivity Levels, 1870-1990," *The Journal of Economic History*, Volume 58, Issue 2, (June 1998) p.385

¹⁸⁵ Varian, B. "The manufacturing comparative advantages of late-Victorian Britain," *Cliometrica*, 14, (2020)

Finally, when considering the impact of trade policy on trade, this dissertation suggests that non-tariff barriers such as the Merchandise Marks Act could result in significant effects on trade. The large increase in German exports to India as a result of the trade diversion caused by the Act suggests that trade policy, outside of tariffs, could be an important determinant of bilateral trade flows in the late nineteenth century.

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Appendix

Sources

This dissertation takes data from four main sources.

The number of goods stopped (detained) from the United States and the value of detentions (Table 1) are taken from *Report from the Select Committee on Merchandise Marks Act, 1887*, Henry Hansard, July 1890, Appendix No. 6, p.313. The number of stoppages by country (Figure 1) are taken from the same source, Appendix No. 10, p.320. The most seized goods (Table 2) are taken from the same source, Appendix No. 7, pp.314-315. The Select Committee Report can be downloaded from ProQuest UK Parliamentary Papers: [U.K. Parliamentary Papers document \(proquest.com\)](#)

High frequency data on British imports by month are taken from *The Economist*. *The Economist* 'Monthly Trade Supplement' provided data on British imports by broad product category. The issues were from December 1885 to December 1889. In total I collected 576 observations for 12 different product categories (living animals, food and drink (duty free), food and drink (dutiabale), tobacco, metals, chemicals and dyes, oils, raw materials (for textiles), raw materials (other), manufactures, miscellaneous, total). The Monthly Trade Supplement was missing for the months January 1887 to June 1887 in the online archive. However, as the Trade Supplement provided the change in imports from the same month in the preceding year, it was possible to backfill these dates. The data can be downloaded from The Economist Historical Archive provided by Gale. [Entire Document \(trade supplement\) LIMITS: Publication Year \(1888\) - Results - The Economist Historical Archive \(lse.ac.uk\)](#)

British imports by year, product and country were taken from the *Annual Statement of the Trade of the United Kingdom with Foreign Countries and British Possessions* for the years 1879, 1882, 1887, 1891, 1896 and 1900. The data can be downloaded from ProQuest UK Parliamentary Papers. [U.K. Parliamentary Papers document \(proquest.com\)](#)

Indian imports by year, product and country were taken from the *Statement of the Trade of British India with British Possessions and Foreign Countries* for the years 1875/6-1879/80, 1880/1-1884/5, 1885/6-1889/90, 1890/1-1894/5, 1896/7-1900/1901. The data can be downloaded from ProQuest UK Parliamentary Papers: [U.K. Parliamentary Papers document \(proquest.com\)](#)

Trade Database

Data on aggregate British imports and aggregate Indian imports by country were provided in the *Annual Statement* and the *Statement of the Trade of British India*. For example, for the years 1878-1882 this can be found on page 2 in the 1882 returns for Britain and for the years 1880-1885 on page 6 in the 1885 returns for India.

In selecting the data for the commodity level regressions, three considerations were at play. First, it was necessary that the commodities were likely to be affected by the Act, so trade categories were first cross referenced with data on product stoppages from Table 2.

Second, it was necessary to ensure consistency of country categories across time. For example, the trade returns enumerate Norwegian exports of glass manufactures after 1892 but not beforehand, meaning Norway is excluded from the panel on British imports of glass manufactures. In the case of British imports of books, data is not available before 1883 for Holland and the United States, but these countries are included thereafter. Because the countries enumerated in the trade returns for each individual product category differed, the sample of countries in each panel regression also differed. A list of which countries were included in each regression is provided in Table 6.

Third, it was necessary to ensure consistency across products. Product categories were subject to change. Imports of Glass Manufactures were a distinct but subcategory of imports of Glass, for example. The category Spirits, when it came to data on Indian imports, was enumerated at the product level category for Germany and Britain pre 1890 but at an individual level category (Brandy, Gin etc) thereafter, meaning that values were summed to ensure a consistent product category over time. In the case of the Indian trade data, exchange rate units were changed in the years 1899 and 1900 making it necessary to convert data provided in sterling for the years 1899 and 1900 using prevailing exchange rates.

Fourth, and finally, it was desirable to ensure that both value and volume data existed for each product category. In two cases for British imports, I deviated from this for the British regressions (Toys and Woollen Manufactures) and in two categories for Indian imports (Toys and Cutlery) as I thought it desirable to check these categories that were frequently stopped, even accounting for the inability to control for prices.

Table 6: Countries covered in panel regressions (with % share of total imports in bold)

British imports all commodities	British imports earthenware	British imports books
Australia	Belgium	France
Belgium	France	Germany
Canada	Germany	Holland (after 1883)
China	Holland	United States (after 1883)
Egypt	China including Hong Kong	
France		
Germany		
Holland		
India		
Russia		
United States		
75%	93%	73%
British imports wine	British imports toys	British imports woollen manufactures
Cape of Good Hope	Belgium	Belgium
France	France	France
Germany	Germany	Germany
Holland	Holland	Holland
Italy		India
Madiera		Turkey
Portugal		
Spain		
97%	98%	99%
British imports glass manufactures		
Belgium		
France		
Germany		
Holland		
N/A		
Indian imports all commodities	Indian imports of wine	Indian imports of wool piece goods
Australia	Australia	Austria
Belgium	Austria	Belgium
Ceylon	France	Egypt
Egypt	Gibraltar	France
France	Italy	Germany
Germany	Straights Settlements	Italy
Italy	UK	UK
Turkey		
UK		
United States		
85%	93%	99%
Indian imports of spirits	Indian imports of toys	Indian imports hardware and cutlery
Belgium	Austria	Australia
France	Belgium	Austria
Germany	China (Hong Kong)	Belgium
Holland	France	China (Hong Kong)
Italy	Germany	France
UK	Italy	Germany
	Straights Settlements	Italy
	UK	Straights Settlements
		UK
75%	98%	99%

Export prices

At the aggregate level, export prices were taken from the Federico-Tena World Trade Historical Database. Export price indices were calculated as the ratio of exports at current prices 1913 borders to exports at constant prices 1913 borders. At the commodity level, export prices were calculated as the value of imports in sterling terms, or in the Indian trade data, 10s of rupees, to the volume of exports in unit terms.

Data on economic openness (defined as exports/GDP) was taken from the Federico-Tena World Trade Historical Database. For the countries China, Russia, Gibraltar, the Straights Settlements and Austria economic openness was not available from the database for these dates, leaving the panel regressions including these countries unbalanced. Excluding these countries from the regressions did not substantively change the results.

Econometric robustness checks

Dickey Fuller statistics for Indian imports at an aggregate level are presented in table 7 below. These show that log level imports are non-stationary for all of the countries in the sample. However, log first differences are stationary. The same issue of non-stationarity also arises in British imports. As a robustness check against the possibility of spurious regression results, I perform a regression in log differences at the aggregate level for both British and Indian imports. This shows (Table 8) that the Merchandise Marks Act dummy continues to exert a statistically significant positive effect on Indian imports from Germany and Belgium in the three years after 1887 but has no impact on British imports from Germany or Belgium.

As a final robustness check, I re-run the aggregate level imports including a dummy variable for 1891 to capture the possibility that the opening of the German Oest-Afrika line that stopped at Bombay line was principally responsible for the increase in Indian imports from Germany over the period. The result of this regression is provided in Table 9 and does not suggest this was the case. It shows that while the post 1891 dummy for Germany (German shipping) has a positive sign, it is not statistically significant, while size of the post 1887 dummy for Belgium and Germany decreases only slightly and remains statistically significant.

Table 7: Dickey Fuller Statistics for Indian Imports

	DF statistic	Mackinnon P value
Log Indian imports from		
United States	-2.303	0.171
France	-1.339	0.611
Belgium	-1.153	0.527
Australia	-2.335	0.161
Italy	-1.396	0.584
UK	-1.673	0.445
Germany	-1.107	0.712
Ceylon	-2.837	0.053
Turkey	-2.971	0.037
Egypt	-1.010	0.749
Log change Indian imports from		
United States	-8.920	0.000
Belgium	-6.796	0.000
France	-6.420	0.000
Australia	-6.629	0.000
Italy	-6.534	0.000
UK	-5.304	0.000
Germany	-5.359	0.000
Ceylon	-6.026	0.000
Turkey	-5.758	0.000
Egypt	-6.414	0.000

Table 8: Dependent variable is change in log imports

	British imports all commodities	Indian imports all commodities
Prices	0.152 (0.158)	-0.529 (0.773)
Openness of trading partners	1.893*** (0.258)	-0.137 (0.827)
Merchandise Marks Act Germany and Belgium	-0.005 (0.038)	0.536* (0.273)
Merchandise Marks Act Britain		-0.001 (0.364)
Constant	0.045 (0.029)	0.073 (0.189)
N	225	250
R squared	0.448	0.104
Year fixed effects	Yes	Yes
No. countries	11	10
Share of trade represented by sample	75%	85%
Years	1875-1900	1875-1900

Standard errors are noted in parentheses. * indicates statistical significance at the 10% level, ** at the 5% level, and *** at the 1% level.

Table 9: Dependent variable is log of

	Value of Indian imports of all commodities
Prices	-2.078** (0.978)
Openness of trading partners	1.299 (1.351)
Merchandise Marks Act Dummy Germany + Belgium	1.666*** (0.469)
Merchandise Marks Act Dummy Britain	-0.007 (0.760)
German shipping dummy	0.980 (0.623)
Constant	14.004*** (1.336)
N	260
R squared	0.079
Country fixed effects	Yes
Year fixed effects	Yes
No. countries	10
Share of trade represented by sample	85%
Years	1875-1900

Standard errors are noted in parentheses. * indicates statistical significance at the 10% level, ** at the 5% level, and *** at the 1% level.