

The Genesis of the GATT

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This book is part of a wider project on the economic logic behind the General Agreement on Tariffs and Trade (GATT). This volume asks: What does the historical record indicate about the aims and objectives of the framers of the GATT? Where did the provisions of the GATT come from and how did they evolve through various international meetings and drafts? To what extent does the historical record provide support for one or more of the economic rationales for the GATT? This book examines the motivations and contributions of the two main framers of the GATT, the United States and the United Kingdom, as well as the smaller role of other countries. The framers desired a commercial agreement on trade practices as well as negotiated reductions in trade barriers. Both were sought as a way to expand international trade to promote world prosperity, restrict the use of discriminatory policies to reduce conflict over trade, and thereby establish economic foundations for maintaining world peace.

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Executive Summary

This book examines the rationales for concluding the General Agreement on Tariffs and Trade (GATT) in 1947. We do this mainly by evaluating the historical record, that is, the various phases of the negotiation of the GATT, and also the views, positions, and ambitions of the key negotiating partners. Our goal is not to provide a detailed account of the negotiating history of each and every GATT provision. However, we study the negotiating history of the most representative GATT provisions and, based on this discussion, aim to advance our understanding of the common intent of the GATT negotiators. This volume sets the stage for subsequent American Law Institute (ALI) volumes that will examine the role of economic theory in interpreting the GATT.

Our book consists of three parts: the first examines the diplomatic origins of the GATT in terms of the post-war economic planning by officials in the United States and the United Kingdom; the second studies the evolution of the provisions of the GATT text from the primary negotiating documents to their modern content; finally, the third advances some preliminary thoughts on the historic validity of the various economic- and international-relations explanations for the GATT.

Although we refer to existing historical accounts, we also rely extensively on *primary* historical sources. The first part uses official memoranda of important bilateral and multilateral discussions as well as the diaries and memoirs of participants. The second is based on the various negotiating documents from the London (1946), the New York (1947), the Geneva (1947), and the Havana (1948) conferences, as well as the Review Session (1955) and the negotiation of Part IV of the GATT on trade and development (1965).

We seek to put the negotiation of the GATT in its historical context. We focus on the particular and time-specific economic problems that confronted

policymakers in the mid-1940s, as well as how state interests – and even personalities – played a role in shaping the GATT. In comparison to modern-day trade delegations, the small composition of national delegates 60 years ago is remarkable. Back then, a handful of remarkable personalities participated directly or indirectly in the negotiation of the GATT: Will Clayton and Harry Hawkins from the United States; James Meade, Lionel Robbins, and John Maynard Keynes from the United Kingdom; Norman Robertson from Canada; and Alexandre Kojève from France. These remarkable personalities produced a text dealing with highly complicated issues that has managed to withstand the test of time for more than 60 years now. We hope our work sheds new light on some of the possible reasons for this success.

Preface

This book is the first in a series sponsored by the American Law Institute (ALI) on the foundations of world trade law as found in the General Agreement on Tariffs and Trade (GATT) and other agreements dealing with trade in goods under the auspices of the World Trade Organization (WTO). The project is entitled *Principles of World Trade Law* and aims at illustrating the basic principles guiding trade liberalization. The ALI appointed Henrik Horn, Petros C. Mavroidis, Kyle W. Bagwell, Gene M. Grossman, Robert W. Staiger, and Alan O. Sykes as reporters. Douglas A. Irwin has been invited to act as a coauthor in this first volume.

This book sets the stage for the subsequent volumes by exploring the circumstances that gave rise to the GATT in 1947. It examines the origin and evolution of specific provisions that comprise the GATT, as well as present government documents and negotiate drafts relating to the creation of the GATT. In the course of our research, we have accumulated many intellectual debts that we wish to acknowledge. We are grateful to Lance Liebman and Elena A. Cappella of the ALI for their support of this project. We are indebted to Todd Feldman at ALI for expert editorial assistance. Judith M. Cole and Sandrine Forgeron at ALI helped to organize a meeting at the Columbia Law School on November 8, 2007, in which we were able to receive valuable feedback on our work. We are greatly indebted to the conference participants for their helpful advice and comments: Steve Charnovitz, William Davey, Richard Gardner, Merit Janow, Anne Krueger, Åke Lindén, John Odell, and Joel Trachtman. We also received useful feedback on our work at a meeting sponsored by the John S. Dickey Center for International Understanding at Dartmouth College, and we thank colleagues – particularly Stephen Brooks, Jennifer Lind, and Benjamin Valentino – for useful feedback. We also benefited from the comments of participants at seminars in Washington, DC, sponsored by the American Enterprise Institute, the World Bank, and the International Trade Commission, particularly Claude Barfield,

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We are further indebted to John Dickson, Luigi Stendardo, and particularly Bruno Ventrone (all at WTO) for being continuously available and for helping us trace documents of utmost importance for this research project. Yahaira Alonzo, Luis Bello, Alexander Blechman, Kory Hiram, and Ashley “Pere-Pere” Pineda responded beyond the call of duty when preparing this book. We are further grateful to Susan Aaronson for providing us with many documents from the U.S. National Archives, which we have supplemented with our own research visits there. We also thank James Miller and Richard Toye for generously sharing with us their unpublished manuscripts on closely related topics. Finally, Irwin thanks the Rockefeller Center at Dartmouth College, and particularly its director, Andrew Samwick, for financial support for the archival research in this volume.

Foreword

The American Law Institute has sought since 2001 to assist the development of coherent and economically rational legal principles governing world trade. We have published three volumes analyzing recent decisions by the World Trade Organization. The chapters analyzing decisions, each the cooperative work of an economist and a lawyer, point the way to interpretations of the relevant treaty that would supply predictability and fairness valuable to nations and to economic actors.

Having focused on specific decisions by the WTO, we have now begun an effort to craft general principles governing this vital area at the intersection of law and economics. Engaged in our work are leading scholars of the field. As is always our practice, their drafts will receive constructive criticism from other engaged experts. Meanwhile, three distinguished professors have prepared this volume, a history of the General Agreement on Tariffs and Trade that supplies important background information for understanding where trade policy and trade law are today. Some aspects of the subject are dry, but this is also a riveting account of growing international interdependency and cooperation as World War II ended and of remarkable personalities, including the great John Maynard Keynes.

The large American Law Institute effort on trade law was conceived and is led by Professor Henrik Horn of the University of Stockholm and Professor Petros Mavroidis of Neuchâtel University in Switzerland and Columbia University in New York. This book was authored by Professor Mavroidis, along with Professor Douglas Irwin of Dartmouth College in New Hampshire and Professor Alan Sykes of Stanford University in California. We are immensely grateful to them and to the many individuals who have suggested improvements when they read earlier drafts or attended conferences discussing earlier drafts. We also appreciate

the generous financial support for our trade-law work from the Jan Wallander and Tom Hedelius Foundation in Stockholm and from the Milton and Miriam Handler Foundation in New York.

Lance Liebman
Director
The American Law Institute

Introduction

At a conference in the *Palais des Nations*, in Geneva, Switzerland, representatives of 23 countries met from April to October 1947 and established two key pillars of the postwar world trading system. First, they created a legal framework for commercial policy by finalizing the text of the General Agreement on Tariffs and Trade (GATT). Second, the Geneva participants negotiated numerous bilateral agreements to reduce import tariffs, the benefits of which were extended to other GATT parties through the unconditional most-favored nation (MFN) clause. As a result, this landmark meeting produced a framework for postwar commercial relations in which governments agreed to rules about the use of certain trade barriers and to negotiate tariff reductions with one another. This system of multilateral cooperation has proven to be an enduring regime under which international trade has flourished for over half a century.

This book examines the origins of the GATT. There are many studies of the GATT from legal and economic perspectives, but relatively few that examine how the GATT emerged from the ashes of World War II. The goal of our study is to appreciate the original goals and intentions of its founders by reviewing the diplomatic history that gave rise to this remarkable agreement, and to understand why the GATT took the particular shape and form that it did, in terms of the various provisions included in or excluded from the text.

Chapter 1 focuses on the negotiations between the United States, the United Kingdom, and other countries during and immediately following World War II that led to the Geneva conference. The GATT grew out of discussions between government officials from the United States and the United Kingdom during the war. After seeing international trade stifled under the weight of protectionist measures during the 1920s and 1930s, officials from both countries had a compelling interest in pursuing policies that would reduce trade barriers and help expand world trade after the war. They sought to foster a more liberal trade

system by developing a broad set of rules that would restrict the arbitrary use of trade restrictions, as well as initiate the process of negotiating reductions in existing trade barriers.

While the U.S. and UK governments agreed on the most important and basic principles to be included in a trade agreement, they differed on many substantive details that affected the shape of the GATT. Once these two countries agreed on a document that could serve as a basis for negotiation, other countries were invited to participate in shaping the provisions of the GATT and the charter for an International Trade Organization. Drawing on archival documents, the diaries and memoirs of participants, published and unpublished cable traffic and government memoranda, as well as many secondary sources, we aim to shed light on the political constraints on both sides of the Atlantic that affected the commercial-policy discussions.

Chapter 2 examines the evolution of the GATT as a legal text. The first draft of a proposed charter for an International Trade Organization (ITO) emerged from the State Department in August 1944. The first publicly released draft of the charter was published by the State Department in December 1945 on the basis of bilateral U.S.-UK discussions during the British loan negotiations. A revised draft emerged at the conclusion of multilateral consultations in London from September-December 1946. Officials in London appointed a drafting committee, which met at Lake Success, New York, in January-February 1947, to produce a formal draft of both a General Agreement on Tariffs and Trade and a charter for an International Trade Organization for consideration at the April 1947 Geneva meeting. This chapter traces how the provisions of the GATT evolved as a result of these meetings, and how the composition of the countries involved at each stage affected the specific details in the GATT text and shaped the form that it ultimately took.

In Chapter 3, we assess the GATT in light of recent economic and political theories that seek to understand the specific rationale for the existence of trade agreements. These theories include the idea that the GATT is motivated by terms of trade externalities across countries, by governments seeking external commitments to reduce the power of domestic interest groups, and by broader foreign policy and national security considerations. This chapter uses the history developed in the previous chapters to enhance our understanding of the motivations (sometimes different across countries) for why they chose to sign an international agreement on commercial policy.

In addition, we present an annex with key official documents whereby the reader can trace the evolution of government proposals and negotiating strategies that eventually produced the GATT in 1947. Annex A consists of documents that give us important insight into the American and British positions regarding a trade agreement. This includes such items as a short memorandum prepared in

1942 by an economist working in the Economic Section of the War Cabinet, James Meade, which was perhaps the first official government document that explicitly envisioned a multilateral commercial agreement after the war, to various State Department cables that reveal the thinking of key officials as the negotiations evolved. Annex B includes the participants in the various committees and sub-committees that were established during the negotiation of the GATT.

The legal and diplomatic record of the 1940s is enormous and many interrelated issues were considered simultaneously by government officials. We strive to limit our focus to a narrow but important part of the bilateral U.S.-UK relationship, i.e., the commercial-policy discussions that led to the GATT. We do not address related issues, such as the 1944 Bretton Woods negotiations on the international monetary system, the British loan of 1945, or even the difficult 1947 Geneva negotiations over trade barriers and the major dispute over imperial preferences, except to provide background as they relate to the provisions of the GATT. Furthermore, given our exclusive focus on the GATT, we do not examine the ultimate failure of the ITO, a subject considered in greater detail by Diebold (1952), Aaronson (1996), Odell and Eichengreen (1996), and Zeiler (1999).

There is an abundance of excellent work on the GATT, yet many of the standard references take the GATT 1947 as their point of departure, giving only a cursory sketch of the events that gave rise to it. For example, the classic works of John Jackson (1969), Kenneth Dam (1970), and Robert Hudec (1975), have analyzed the GATT as an international legal text, and other important books, such as Gerard Curzon (1965) and Karin Koch (1969), have examined the early activities of the GATT as an international organization. Yet both types of work take the GATT as given and focus less on its origins or where the text originated.

Our work builds on the classic work of Richard Gardner, *Sterling-Dollar Diplomacy* (1956). Gardner was one of the first scholars to consider the Anglo-American economic negotiations during World War II, and his book has stood the test of time for clarity and insight. While he focuses on both the monetary and trade discussions, we focus exclusively, and in somewhat greater detail, on the trade negotiations and texts. Later works, particularly Thomas Zeiler's *Free Trade, Free World: The Advent of GATT* (1999), also examine in great detail the diplomatic maneuvering and national motivations in the negotiations that led to the GATT, as do Miller (2003) and Tøye (2008). Susan Ariel Aaronson's *Trade and the American Dream: A Social History of Postwar Trade Policy* (1996) is also a notable, archival-based examination of U.S. trade-policy formation in the 1940s.¹ These works, however, tend to avoid discussion of the specific provisions

¹ There are also several country studies of trade policy, such as for Australia (Capling 2001) and Canada (Hart 1993, Rasmussen 2001), that examine how these countries responded to U.S.-UK proposals during the 1940s.

that eventually comprised the GATT text. While our book also does not aim to be a definitive history of the origins of the GATT, we hope it provides a deeper understanding of the basis for this important agreement.

We also hope that this book, which has been published shortly after the 60th anniversary of the 1947 Geneva conference that established the GATT, serves as a reminder of the remarkable and long-lasting achievements made just a little over half a century ago.

1 The Creation of the GATT

1.1 After the First World War

To understand the origins of the GATT, one must appreciate the traumatic events of the 1920s and 1930s. The period between World War I and World War II was a political and economic disaster, scarred by the Great Depression and the rise of fascism. A strong desire to avoid repeating this experience after World War II, along with the abandonment of isolationism by the United States in favor of a leadership role in world affairs, fostered support around the world for a new approach to international economic cooperation.

The outbreak of World War I in 1914 interrupted what had been a period of growing worldwide economic prosperity with moderate tariffs and expanding world trade supported by a well-functioning international monetary system (the gold standard). After the shock of World War I, the international trade and payments system recovered very slowly during the 1920s. Most countries only gradually phased out wartime controls on trade, while tariff levels remained higher than before the war. The United Kingdom did not return to the gold standard until 1925, and other countries waited even longer before restoring the convertibility of their currencies. Under the auspices of the League of Nations, the World Economic Conference of 1927 aimed to return the world economy to its previous state of vigor. But the Conference only started an international discussion of matters such as tariff levels, most-favored-nation clauses, customs valuation, and the like.

The gradual restoration of the world economy was interrupted by a worldwide recession starting in 1929. This economic downturn was met by greater protectionism, which in turn further reduced world trade. Although monetary and financial factors were primarily responsible for allowing the recession to turn into the Great Depression of the early 1930s, the spread of trade restrictions

aggravated the problem. The commercial policies of the 1930s became characterized as “beggar-thy-neighbor” policies because many countries sought to insulate their own economy from the economic downturn by raising trade barriers. Blocking imports proved to be a futile method of increasing domestic employment because one country’s imports were another country’s exports. The combined effect of this inward turn of policy was a collapse of international trade and a deepening of the slump in the world economy.¹

The United States bore some responsibility for this turn of events. What started out in 1929 as a legislative attempt to protect farmers from falling agricultural prices led to the enactment of higher import duties across the board in 1930. The Hawley-Smoot tariff of that year pushed already high protective tariffs much higher and triggered a similar response by other countries. According to the League of Nations (1933, 193),

the Hawley-Smoot tariff in the United States was the signal for an outburst of tariff-making activity in other countries, partly at least by way of reprisals.

Canada, Spain, Italy, and Switzerland took direct retaliatory trade actions against the United States, while other countries also adopted higher tariffs in an attempt to insulate themselves from the spreading economic decline. The United Kingdom made a sharp break from its traditional free-trade policies by imposing emergency tariffs in 1931 and enacting a more general Import Duties bill in 1932. France and other countries that remained on the gold standard long after others had abandoned it for more reflationary policies imposed import quotas and exchange restrictions in an attempt to safeguard their balance of payments and stimulate domestic economic activity.

Many countries also turned to discriminatory trade arrangements in the early 1930s, both for economic and political reasons. At a conference in Ottawa in 1932, the United Kingdom and its dominions (principally Australia, Canada, New Zealand, and South Africa) agreed to give preferential tariff treatment for one another’s goods. This scheme of imperial preferences involved both higher duties on non-British Empire goods and lower duties on Dominion goods and drew the ire of excluded countries for discriminating against their trade. Meanwhile, under the guidance of Reichsbank President Hjalmar Schacht, Nazi Germany concluded a series of bilateral clearing arrangements with central European countries that effectively created a new trade bloc, orienting the trade of these countries toward Germany at the expense of others. In Asia, Japan created the

¹ See the League of Nations (1942), Kindleberger (1986), Kindleberger (1989), and James (2001).

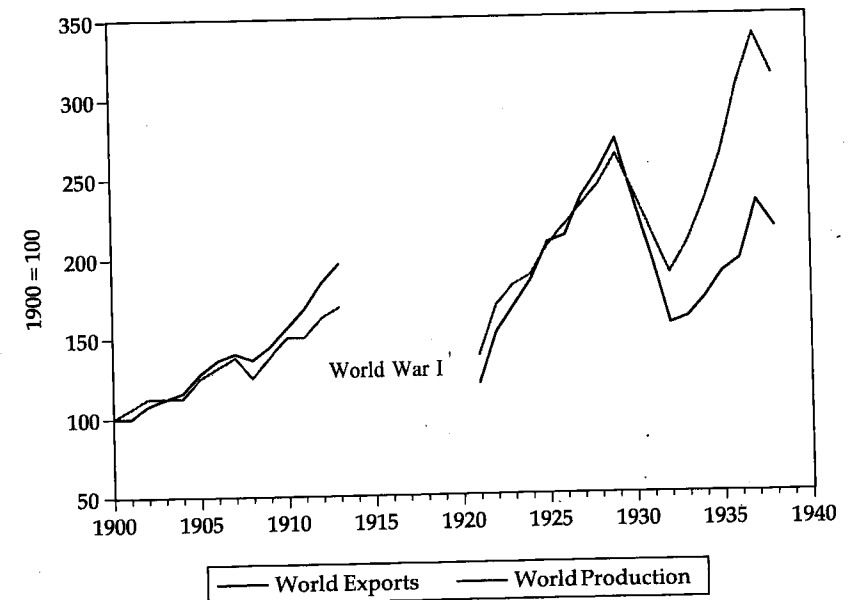


Figure 1.1. The Volume of World Trade and Production, 1900–1938. Source: Norbom (1962).

Greater East Asia Co-Prosperity sphere to extend its political and economic influence throughout the region and siphon off trade for its own benefit.

The outcome of these protectionist and discriminatory trade policies was not just a contraction of world trade, but a severe breakdown in the multilateral trade and payments system that the world economy had enjoyed prior to World War I and had started to revive in the late 1920s. Official conferences and multilateral meetings, notably the World Economic Conference in 1933, offered pronouncements to resist protectionism, but failed to stem the spread of inward-looking antitrade economic policies. The economic distress of the decade also had political consequences, undermining faith in democratic governments to manage their economies and hence abetting a turn to more authoritarian regimes in Germany and elsewhere.

Figure 1.1 shows the level of world exports and world production from 1900 to 1938. Although trade tended to grow faster than production prior to World War I and even in the 1920s, it collapsed to a much greater extent in the early 1930s. Even more important, having been saddled with a new and heavy layer of trade restrictions, world trade failed to rebound significantly after the recovery had

begun. Even by 1938, world trade was still well below its 1929 peak. The growth of protectionist measures had stifled world trade and thereby, in the minds of many economic officials, hindered a full and complete recovery from the Depression.

However, having initiated the move toward greater protectionism in the 1930s, the United States also became one of the first countries to try to reverse these detrimental developments. For the first time in its history, the United States began to take a serious and active role in reducing trade barriers and expanding world trade in cooperation with other countries. After the Republican party that was responsible for the Hawley-Smoot tariff in 1930 was swept from office in the 1932 election, the Democratic administration of President Franklin D. Roosevelt formulated a new approach to trade policy. Recognizing that it could not undertake a unilateral reduction in American tariffs in the midst of the depression, the Roosevelt administration sought to negotiate bilateral trade agreements to reduce tariffs in concert with others. In 1934, the Democratic-majorities in Congress enacted the Reciprocal Trade Agreement Act (RTAA), which allowed the President to reduce American tariffs by up to 50 percent in the context of bilateral trade agreements that employed the unconditional most-favored-nation (MFN) clause. With this authority, originally granted for three years and subsequently renewed, the Roosevelt administration concluded more than 20 trade agreements during the 1930s.

Although these agreements had a limited effect in boosting world trade during the tumultuous 1930s, the RTAA marked a new beginning for U.S. trade policy, shifting it in a more liberal direction. The RTAA changed the course of American trade policy in several ways.² First, by enacting the RTAA, Congress effectively gave up the ability to legislate duties on specific goods when it delegated tariff negotiating power to the executive. Congressional votes on trade policy were now framed simply in terms of whether or not (and under what circumstances) the RTAA should be continued, so vote trading among particular import-competing interest groups was no longer possible. In addition, the national electoral base of the President is often thought to make the executive more likely to favor policies that could benefit the nation as a whole (such as open trade), whereas the narrower geographic representative structure of Congress would lead its members to have more parochial interests. For instance, the President may be more likely than Congress to take into account the broader foreign-policy ramifications of trade policy that affect the country as a whole.

Furthermore, the RTAA reduced the threshold of political support needed for members of Congress to approve executive tariff-reduction agreements. The renewal of the RTAA required a simple majority in Congress, whereas prior to the

² The academic literature on the RTAA is quite large. See Haggard (1988), Bailey, Goldstein, and Weingast (1997), Hiscox (1999), Irwin and Kroszner (1999), and Schnietz (2000).

RTAA any foreign-trade treaty negotiated by the President had to be approved by two-thirds of the Senate. Tariff-reducing agreements thus needed only the support of the median legislator, not that in the 67th percentile. This meant that protectionist forces would have to muster greater support to block tariff-reduction agreements under the RTAA, by refusing to renew the legislation, than under a treaty, when a minority could (and frequently did) veto it.

Finally, the RTAA helped to bolster the bargaining and lobbying position of exporters in the political process. Previously, import-competing domestic producers were the main trade-related lobby group on Capitol Hill since the benefits to these producers of high tariffs was relatively concentrated. Exporters were harmed indirectly by these tariffs, but the cost to exporters of any particular duty was relatively diffuse, and therefore exporters failed to organize an effective political opposition. The RTAA bundled foreign tariff reductions that were beneficial to exporters with lower tariff protection for import-competing producers. By directly linking lower foreign tariffs to lower domestic tariffs, the RTAA may have fostered the development of exporters as an organized interest group opposed to high tariffs and supporting international trade agreements.

The key figure behind this shift in U.S. trade policy was Cordell Hull, Roosevelt's Secretary of State. Hull was a southern Democrat, a politician from a region and party that had traditionally and strongly supported low tariff barriers to trade. As a member of Congress during World War I, Hull grew to appreciate the global ramifications of domestic tariff policy. In his memoirs, Hull (1948, 84, 81) recalled:

When the war came in 1914, I was very soon impressed with two points. . . . I saw that you could not separate the idea of commerce from the idea of war and peace. . . . [and] that wars were often largely caused by economic rivalry conducted unfairly. . . . But toward 1916 I embraced the philosophy that I carried throughout my twelve years as Secretary of State. . . . From then on, to me, unhampered trade dovetailed with peace; high tariffs, trade barriers, and unfair economic competition, with war. Though realizing that many other factors were involved, I reasoned that, if we could get a freer flow of trade – freer in the sense of fewer discriminations and obstructions – so that one country would not be deadly jealous of another and the living standards of all countries might rise, thereby eliminating the economic dissatisfaction that breeds war, we might have a reasonable chance for lasting peace.

As a result, Hull was an early advocate of international cooperation on trade matters. In 1916, he called for the establishment of a permanent international congress that would consider

all international trade methods, practices, and policies which in their effects are calculated to create destructive commercial controversies or bitter

economic wars, and to formulate agreements with respect thereto, designed to eliminate and avoid the injurious results and dangerous possibilities of economic warfare, and to promote fair and friendly trade relations among all the nations of the world (Hull 1948, 81–82).

The spread of illiberal trade policies and rise of international tensions in the 1920s and early 1930s confirmed to Hull the lessons he had learned during World War I. As he declared in 1937:

I have never faltered, and I will never falter, in my belief that enduring peace and the welfare of nations are indissolubly connected with friendliness, fairness, equality and the maximum practicable degree of freedom in international trade (Dam 1970, 12).

Having been chosen by Roosevelt to serve as Secretary of State, Hull was uniquely positioned to pursue his belief that freer trade might lead to economic and political conditions that would be more favorable to peace. Hull fought a long and hard bureaucratic battle to ensure that the official U.S. government position on international-trade policy was his State Department's vision of a world more open to trade and free from discriminatory commercial policies.³ Hull helped design the RTAA and led the fight for its passage by Congress. The administration requested Congressional authority to reduce tariffs by no more than 50 percent on a selective, product-by-product basis to avoid injuring domestic industries. The goal was not "free trade" in the sense of zero tariffs, then an inconceivable objective, but simply to reduce "excessive" tariffs and allow some additional growth in foreign trade.

Hull was an especially sharp critic of imperial preferences because of their adverse effect on U.S. exports, particularly to the United Kingdom and Canada, two of America's most important markets. Testifying before Congress in 1940, Hull called imperial preferences "the greatest injury, in a commercial way, that has been inflicted on this country since I have been in public life" (Gardner 1956, 19). Hull particularly desired a trade agreement with the United Kingdom and Canada to reduce the discriminatory effect against U.S. exports. In 1938, the United States and the United Kingdom signed a reciprocal trade agreement, but the negotiation was difficult and the results were limited. Despite Hull's best efforts, the agreement failed to put a dent in Britain's system of tariff preferences.

³ At least initially, the Roosevelt administration was deeply divided between internationalists in the State Department, foremost among them Secretary Hull, and economic nationalists elsewhere who supported the New Deal program of government price supports (in agriculture and through industrial codes) that might be undermined without controls on imports. For a study of Hull and the early trade-agreements program, see Butler (1998). Allen (1953) also examines Hull's trade beliefs.

Furthermore, the agreement went into effect in January 1939 but was rendered moot a few months later when Britain adopted extensive controls on imports with its entry into World War II in September.

During World War II, as we shall see, Hull inspired the State Department's efforts to develop more ambitious plans to reduce trade barriers after the war "based on a conviction that such liberal commercial policies and the development of the volume of commerce would constitute an essential foundation of any peace structure that civilized nations might erect following the war." While often criticized for being naive about the linkage of trade and peace, Hull firmly believed that

a revival of world trade [is] an essential element in the maintenance of world peace. By this I do not mean, of course, that flourishing international commerce is of itself a guaranty of peaceful international relations. But I do mean that without prosperous trade among nations any foundation for enduring peace becomes precarious and is ultimately destroyed.⁴

Although Hull retired as Secretary of State in November 1944 and was not directly involved in the GATT negotiations, he gave the State Department a strong and lasting intellectual direction. As America's longest-serving secretary of state and imbued with a deep ideological attachment to the reduction of trade barriers, Hull shaped the State Department's approach to trade policy long after his departure. As Miller (2003, 12) put it:

When Hull initiated postwar planning in 1939, he had already enjoyed six years in which to accrue trade policymaking power for the State Department. Over the course of his tenure, he carefully chose a group of men, based upon their views about trade, to formulate his favoured policies: if the officials arrived in the Department without decided views, then senior officials quickly inculcated them. Never before had trade policy originated in such a centralised, small, and carefully controlled location. More than any of their predecessors or successors, Hull's men shared several advantages: tremendous power relative to other branches of government, uniformity of opinion and purpose, and the Secretary's passionate commitment to their work and results.

While critics mocked his single-minded focus on trade policy, Hull ultimately persevered in his quest to develop a more liberal international trading system based on multilateral cooperation. Indeed, the reciprocal trade agreements program of the 1930s gave U.S. trade officials negotiating experience that allowed them to move with relative ease into discussions over postwar

⁴ State Department *Bulletin* 8 (April 17, 1943), 329.

arrangements. By the end of the 1939, the United States had concluded trade agreements with 22 countries. While the impact of the tariff reductions in these agreements was modest, the provisions in the agreements formed the basis for a future multilateral accord. For example, in a template trade agreement from 1941, reproduced in Annex A-1, Article 1 is the unconditional most-favored nation clause. Other articles cover internal taxes, import quotas, exchange controls, monopolies and government purchases, customs administration, withdrawal or modification of concessions, safeguards, exceptions to MFN treatment, territorial application, and provisional application, among others. These provisions served as the basis for U.S. trade proposals during the war and many were ultimately included in the GATT. Hence, the GATT was not created from scratch, but represented a continuation and expansion of U.S. efforts during the 1930s.

In some sense, the goal of Cordell Hull's life was to further the objective of trade liberalization. For almost single-handedly repositioning U.S. trade policy in the 1930s and inspiring the efforts at postwar planning during the 1940s, Hull was the most important individual responsible for what ultimately became the GATT.

1.2 The Atlantic Charter and Article VII Negotiations

The outbreak of the European war in September 1939, and particularly the fall of France in June 1940, put the United States in the awkward position of formal neutrality and yet having a vital stake in the survival of the United Kingdom. With American public opinion opposed to any direct military involvement in the war, the Roosevelt administration sought to provide assistance to Britain through the Lend Lease program. Despite fears that this would embroil the country in the war, Congress passed the Lend Lease Act in March 1941. This enabled the federal government to transfer billions of dollars worth of equipment and supplies to the United Kingdom and later to other allies as well.

A key provision of Lend Lease was its deliberate disavowal of any requirement for a financial settlement for the goods provided. This provision aimed to avoid the difficult problems associated with debt repayments after World War I. Instead, as compensation for the U.S. assistance, Britain was required to provide a "direct or indirect benefit which the president deems satisfactory." This unspecified benefit became known as "the consideration" and was the price that Britain would have to pay for American aid.

The decision to settle Lend Lease debts without monetary or financial repayments had a profound impact on the shape of the postwar economic system. The United States decided to extract foreign-policy promises from the United

Kingdom and required its participation in a new world economic framework. This also meant that the State Department, rather than the Treasury Department, would be the lead U.S. government agency responsible for handling the consideration.⁵ While the Treasury Department would have primary authority for handling postwar international monetary and finance issues, the State Department took the lead in most other postwar arrangements, such as creating the United Nations and negotiating postwar trade agreements.

This put Cordell Hull and the State Department in a much stronger position to eliminate imperial preferences than they had been in 1938 when they sought to do so in a reciprocal trade agreement. In 1941, Britain was in a much weaker position and desperately required American assistance. Hull therefore aimed to use "the consideration" to extract from the United Kingdom a pledge to abolish imperial preferences and to support a more liberal and nondiscriminatory international trade regime. Early State Department drafts of the lend-lease agreement called for the elimination of all imperial preferences.⁶

In June 1941, John Maynard Keynes, representing the UK Treasury, was dispatched to Washington to discuss the possible terms of a mutual aid agreement. At this point, Britain's goal was to postpone any specific commitments on postwar economic policy.⁷ But U.S. officials were not to be dissuaded. On July 28, 1941, Assistant Secretary of State Dean Acheson presented Keynes with a draft aid agreement. Article VII of the draft read:

The terms and conditions upon which the United Kingdom receives defense aid from the United States of America and the benefits to be received by the United States of America in return therefore, as finally determined, shall be such as to not burden commerce between the two countries but to promote mutually advantageous economic relations between them and the betterment of world-wide economic relations; they shall provide against discrimination in either the United States or the United Kingdom against

⁵ In May 1941, President Roosevelt gave the State Department the principal responsibility for negotiating a Lend Lease agreement with the United Kingdom (FRUS 1941, III, 5). As Treasury Secretary Henry Morgenthau wrote, "As far as I am concerned, I am licked in the State Department. . . . Every time the President asks me to do something, Mr. Hull goes into a sulk and gets mad. . . . I am through being the President's whipping boy on the foreign affairs staff. . . . Let the President of the United States tell Mr. Hull what kind of document he wants. . . ." Quoted in Kimball (1971, 248).

⁶ Reynolds (1982, 275ff) suggests that State Department officials Sumner Welles and Dean Acheson, rather than Franklin Roosevelt or Cordell Hull, argued for this tough position.

⁷ "The Foreign Office advised stalling on any suggestion for commitment on post-war policy. . . . This firm stonewalling reflected British optimism that either there would be no Consideration at all or that it might be largely and acceptably non-economic" (Pressnell 1986, 31).

the importation of any product originating in the other country; and they shall provide for the formulation of measures for the achievement of these ends (FRUS 1941, III, 15).

Keynes asked whether this raised the question of whether imperial preferences, exchange controls, and other trade measures would be restricted in the postwar period. Acheson replied that it did, but assured Keynes that

the article was drawn so as not to impose unilateral obligations, but rather to require the two countries in the final settlement to review all such questions and to work out to the best of their ability provisions which would obviate discriminatory and nationalistic practices and would lead instead to cooperative action to prevent such practices (FRUS 1941, III, 11).

This produced a long outburst from Keynes, who was dismayed at what he perceived to be an attempt to force unilateral obligations on the United Kingdom by taking aim at imperial preferences and other trade controls that might be desirable in the postwar world.⁸ Keynes privately dismissed this first draft of Article VII as the "lunatic proposals of Mr. Hull" (Harrod 1951, 512). In Keynes's view, the State Department had "taken the opportunity to introduce their pet idea in language which they meant to be technical; whereas the President himself had nothing so definite in view and meant only to require that we should agree to co-operate and to do so in a certain spirit and with a certain good purpose" (Pressnell 1986, 36).

Keynes made no promises and told Acheson that the British government was divided over postwar trade policy; some wanted a return to free trade, another group (including Keynes) believed in the use of import controls, and a third

⁸ According to Acheson's minutes of the meeting: "Mr. Keynes then spoke for some time quite strongly about this provision. He said that he did not see how the British could make such a commitment in good faith; that it would require an imperial conference and that it saddled upon the future an ironclad formula from the Nineteenth Century. He said that it contemplated the impossible and hopeless task of returning to a gold standard where international trade was controlled by mechanical monetary devices and which had proved completely futile. He said that the only hope of the future was to maintain economies in balance without great excesses of either exports or imports, and that this could be only through exchange controls, which Article VII seemed to ban. He went on to say that the language used in Article VII had a long history; that it permitted all sorts of cunningly devised tariffs, which were in fact discriminatory and prohibited sound economic monetary controls. Finally, he said that at the end of the war we will probably have a great excess of exports, the British would require a considerable excess of imports, and that the formula provided in Article VII was wholly impossible. I replied to Mr. Keynes that I thought he was taking an extreme and unjustified position and that it must be clear to him that no one would be less likely to impose a rigid and unworkable formula upon future developments than the President." FRUS 1941, III, 12.

group wanted to maintain imperial preferences (FRUS 1941, III, 13). However, Keynes came around – "at the end of our talk he seemed more reconciled to the Article, but by no means wholly so," Acheson reported – and promised to take the draft to London for review.

The next day, after he had calmed down, Keynes wrote to Acheson:

I should not like it to be thought because of my cavilling at the word "discrimination" that the excellence and magnanimity of the first part of that Article VII and of the document as a whole had gone overlooked. . . . My so strong reaction against the word "discrimination" is the result of my feeling so passionately that our hands must be free to make something new and better of the postwar world; not that I want to discriminate in the old bad sense of that word – on the contrary, quite the opposite. . . . But the word calls up, and must call up – for that is what it means strictly interpreted – all the old lumber, most-favored-nation clause and the rest which was a notorious failure and made such a hash of the old world. We know also that won't work. It is the clutch of the dead, or at least the moribund, hand. If it was accepted it would be cover behind which all the unconstructive and truly reactionary people of both our countries would shelter. We must be free to work out new and better arrangements which will win in substance and not in shadow what the President and you and others really want. As I know you won't dispute this, we shall be able to work something out. Meanwhile forgive my vehemence which has deep causes in my hopes for the future (FRUS 1941 III, 16–17).

Still, Keynes was shocked, in this instance and many others, at what he viewed as the State Department's outdated 19th-century laissez-faire ideology of simply reducing government trade intervention in the postwar era. For example, Keynes (1980, 239) dismissed one State Department memo on trade as

a dogmatic statement of the virtues of laissez-faire in international trade along the lines familiar forty years ago, much of which is true, but without any attempt to state theoretically or to tackle practically the difficulties which both the theory and the history of the last twenty years has impressed on most modern minds.

Keynes strongly believed that government economic planning would be required to ensure full employment in the postwar period. Such planning, in his view, would necessarily include government controls on international trade.⁹

⁹ An economic official at the U.S. Embassy in London, E. F. Penrose (1953, 18), recalled about this period: "At that time and later I did my best to impress on Mr. Keynes and other government economists that the desire for freer and for non-discriminatory trade in the State Department should not be written off as the product of a nineteenth century

The State Department and other U.S. agencies took a very different view. Not only did they want nondiscrimination as a key part of the world trading system, but they also wanted to ensure that most international trade would be left in the hands of private enterprise, not government planners.

The clash between Keynes and Acheson over imperial preferences would be repeated at nearly every Anglo-American meeting over the next six years. The next occasion for an exchange of views was in August 1941, when President Roosevelt and Prime Minister Winston Churchill met at Placentia Bay off the coast of Newfoundland. The two leaders sought to issue a joint declaration on the purposes of the war against fascism and the guiding principles to be followed after the war. Churchill presented a first draft of the Atlantic Charter that included the pledge that the two countries would

strive to bring about a fair and equitable distribution of essential produce . . . between the nations of the world (Wilson 1991, 164).

Under Secretary of State Sumner Welles tried to introduce tougher language that called for the "elimination of any discrimination." Roosevelt softened this to say that mutual economic relations would be conducted "without discrimination," but even this proved to be unacceptable to Churchill. When presented with a draft stating that the countries

will endeavor to further the enjoyment by all peoples of access, without discrimination and on equal terms, to the markets and to the raw materials of the world which are needed for their economic prosperity,

Churchill asked whether this would apply to the Ottawa Agreements. Wells said yes, but assured the Prime Minister that the phrase "will endeavor" meant that no commitments would be made. Churchill replied that any change in imperial preferences would require consultations with the Dominions and therefore discrimination could be eliminated only "with due respect for existing obligations" (Wilson 1991, 163–172). Over the strong objections of Welles, Roosevelt accepted this language.¹⁰

laissez-faire attitude toward economic affairs, untouched by recent economic thought and experience. . . . In conversations in Washington both Acheson and Hawkins showed themselves progressive in outlook and under no illusion that freer trade alone was panacea for all economic ills. However, it soon appeared that the contrary view had been expressed to British officials in Washington by some U.S. officials outside the State Department." Markwell (2006) provides a good study of Keynes's views on international economic matters.

¹⁰ As Welles later put it, "I said that in my own judgment further modification of that article would destroy completely any value in that portion of the proposed declaration. I said that it was not a question of phraseology, that it was a question of a vital principle which was

The final version of the Atlantic Charter read:

. . . .
Fourth, they will endeavor, with due respect for their existing obligations, to further the enjoyment by all States, great or small, victor or vanquished, of access, on equal terms, to the trade and to the raw materials of the world which are needed for their economic prosperity;

Fifth, they desire to bring about the fullest collaboration between all nations in the economic field with the object of securing, for all, improved labor standards, economic advancement and social security;

While the British were relieved at this outcome, Cordell Hull and other State Department officials, who were not present at the summit, were dismayed. Hull (1948, 975–976) later recalled that he was "keenly disappointed" with the fourth article because the "with due respect" qualification "deprived the article of virtually all significance since it meant that Britain would continue to retain her Empire tariff preferences against which I had been fighting for eight years." Indeed, State Department officials would not give up their attack on imperial preferences, which in their view "combined the twin evils of discrimination and politicization of foreign trade" (Woods 1990, 18).¹¹ Hull immediately sought clarification of the language with his British counterparts and pushed for stronger language in future meetings.

Meanwhile, American and British civil servants continued drafting the specific provisions and language of the Mutual Aid Agreement. The United

involved. I said that if the British and the United States Governments could not agree to do everything within their power to further, after the termination of the present war, a restoration of free and liberal trade policies, they might as well throw in the sponge and realize that one of the greatest factors in creating the present tragic situation in the world was going to be permitted to continue unchecked in the post-war world. . . . I said, however, that it seemed to be imperative that we try to agree now upon the policy of constructive sanity in world economics as a fundamental factor in the creation of a new and better world and that except through an agreement upon such a policy by our two governments there would be no hindrance whatever to a continuation later to the present German practices of utilizing their trade and financial policies in order to achieve political ends." FRUS 1941, I, 362.

¹¹ As the State Department saw it, "Britain under the Ottawa Agreements granted special low tariff duties and signed long-term bulk-purchasing agreements with empire trading partners in order to monopolize their raw materials and make sure that they took only British-manufactured products," writes Wood (1990, 18). "Imperial preferences could be used, then, not only to monopolize the trade of a particular nation or region; it also could be used to isolate and punish political and military rivals. In a political as well as an economic sense, the structure established by the Ottawa Agreements seemed the antithesis of multilateralism."