

Power and Institutional Design: The General Agreement of 1947

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Abstract

What is the role of power in institutional design? In particular, how can the causal role of power be conceptualized, modeled, and operationalized within a specific theoretical framework to explain institutional variability? This analysis examines the role of power in the design of the General Agreement on Tariffs and Trade (GATT), focusing on the key institutional arrangements installed in the Geneva negotiations of 1947. Power is conceptualized as a direct effect on institutional design and measured in terms of the institutional preferences of the most powerful actor. The results of the analysis show first, that power exerts a significant main effect, as institutional arrangements reflect in particular the preferences of the leading actors; and second, that power also has strong interaction effects, affecting outcomes in institutional arrangements jointly with other significant explanatory factors and generally intensifying cooperation problems such as distribution and uncertainty among the leading actors.

Power and Institutional Design: The General Agreement of 1947

What is the role of power in institutional design? In particular, how can the causal role of power be conceptualized, modeled, and operationalized within a specific theoretical framework to explain institutional variability? That power influences institutional outcomes is regarded as almost axiomatic. Yet what is less obvious is where and how exactly power fits into an analytical framework for understanding differences in institutional design. This paper analyzes power as an independent variable, one whose effect is separable from other factors that explain variability in institutional design. It places power explicitly within an analytical framework, thus directing greater attention to *how* power affects the design of institutions. The effect of power is analyzed as a main effect, as measurable through the institutional preferences of the most powerful actor, and as part of interaction effects as this focal actor bargains over and resolves cooperation problems with other leading actors whose participation is regarded as necessary for institutional formation.

This study analyzes the role of power using the design of the General Agreement on Tariffs and Trade (GATT) as a case study, focusing on the key institutional arrangements that were installed in the first round of negotiations in Geneva in 1947.¹ Given the role of U.S. leadership in the formation of this institution and all other postwar institutions after the Second World War, this case provides a strong demonstration of the role of power in institutional design. The institutional preferences of the United States,

¹ *General Agreement on Tariffs and Trade*, signed in Geneva on 30 October 1947. Applied provisionally as from 1 January 1948 pursuant to the *Protocol of Provisional Application*. *United Nations Treaty Series* Volume 55, Registration number 814 (Registered *ex officio* on May 30, 1950).

the focal actor, capture the main effect of power in the General Agreement. The United States' multilateralism, Cold War imperatives, and the constraints of domestic politics over trade all shaped its institutional preferences and in turn determined the features of the trade regime. Power also demonstrates substantial interaction effects, exacerbating cooperation problems among the leading actors, especially between the United States and Great Britain. Outcomes in GATT's design thus essentially reflect the institutional preferences of the United States and the resolution of cooperation problems among leading actors, which determined the normative and functional contours of the General Agreement. The rules comprising the GATT's initial institutional design are important in that they have had a lasting impact on its evolution as the premier international institution governing trade. Outcomes in the GATT's design are the early outcomes that generated deep equilibria (Pierson 2004), or sources of institutional resilience that are key to understanding GATT's institutional development.

Problematizing Power in Institutional Design

Institutions are “explicit arrangements, negotiated among international actors, that prescribe, proscribe, and/or authorize behavior” to use the definition proposed by the rational design project, whose primary focus is on explaining institutional design outcomes (Koremenos et al. 2001a, 762). Institutional design, as defined in this paper, is the stage of institutional formation in which states resolve cooperation problems as they bargain over institutional arrangements to govern a particular issue area. This bargaining stage of institutional formation is separable from the subsequent enforcement stage

(Fearon 1998), and resolution of particular cooperation problems among actors provides, in its earliest stages, the formative contours of an institution's developmental trajectory.

The role of power is broadly relevant, and some would argue critical, to the study of international institutions. Power, as it is argued here, is especially important in understanding their design. Yet scholarship on international institutions provides few explanations for why institutions, even as products of power politics, look the way they do. Studies of hegemonic stability theory have focused on the ability of the most powerful actor(s) to resolve market failure or collective action problems through the construction of institutions that detect, punish, and thus prevent free-riding by other states.² The focal actor may utilize sheer coercion, threats of defection, issue linkage, or side payments (Martin 1992b) to produce cooperation among actors. Institutions may also generate "focal points" (Garrett and Weingast 1993) as well transform actors' identities and interests (Risse-Kappen 1996; Sandholtz 1993).

However, the successful attainment of cooperation through the actions of powerful actors is not sufficient to explain the variability among institutional arrangements themselves. For example, institutional arrangements vary in important ways in imposing exit costs, and as much as the realist position would argue that this is intended to minimize any participant's obligations and constraints on its behavior, much effort goes into negotiating the costs of exit, thus resulting in variability across institutions.³ The question still remains as to why some institutions such as the

² See, among others, Kindleberger (1973), Snidal (1985), Krasner (1976); Gilpin (1975); Keohane (1980; 1984).

³ Lipson (1984) notes as well differences in forms of cooperation across economic and security issues that center on the costs of defection, monitoring difficulties, and perceptions of security issues on strictly competitive terms (18).

International Court of Justice (ICJ) (Abbott and Snidal 1998, 23) or the International Labor Organization (ILO) (Krasner 1985) are easier to “exit” whereas others impose high political costs (Chayes and Chayes 1993, 186-187).

Even in the most recent advancement in understanding institutional design, the “rational design project” proposed by Koremenos, Lipson, and Snidal (2001a), power takes a back seat in explaining institutional variability. In directing greater attention to why institutions are designed as they are, the project proposes an analytical framework in which institutions vary in terms of a set of dependent variables reflecting different aspects of institutional arrangements: i) rules of membership; ii) the scope or range of issues to be covered; iii) the centralization of tasks such as information gathering, enforcement and dispute resolution; iv) control mechanisms such as voting rules; and v) flexibility to accommodate new circumstances. These, in turn, are determined by a set of independent variables, or cooperation problems surrounding issues of i) distribution; ii) enforcement; iii) the number of actors involved in the institutional arrangement and the asymmetries in capabilities among them; and iv) uncertainty about preferences, behavior, and future consequences or the “state of the world.” The rational design project, however, does not directly account for power in its analytical framework, though it is emphasized that it can easily be extended to do so (Koremenos et al. 2001b, 1068). Indeed, one of the chief conclusions drawn from the survey of case studies was the need to analyze “more fully and explicitly” the role of power (Koremenos et al. 2001b, 1054).

From this starting point, two key issues arise in analyzing the role of power in institutional design. The first concerns functional form, or a statement of the specific causal relationship between power and institutional design outcomes. If power were to

have “pride of place” (Krasner 1991, 336), where should it be placed within a causal structure for explaining institutional design outcomes? The second issue concerns measurement. This is essentially a question of operationalization, focusing on how power can be observed in the process of bargaining over institutional arrangements. It calls for identifying the causal mechanism(s) and the aspects of power relations that are most relevant to determining institutional design outcomes.

On the first question of functional form, one approach is to regard power as a contextual factor that has a pervasive effect on the entire process of institutional formation, determining the very cooperation problems that arise among the actors and the institutional arrangements resolving them. As Krasner (1991) has argued, power “draw[s] attention to how the payoff matrix was structured in the first place, how the available options are constrained, who can play the game, and, ultimately, who wins and loses” (366). Figure 1a illustrates this approach, in which power, placed in an oval as a latent variable, remains unobserved yet determines both cooperation problems and institutional design outcomes, the independent and dependent variables, respectively, in a model of institutional design.⁴ In this conceptualization, cooperation problems and institutional arrangements are epiphenomenal to power and little more than a direct translation to the institutional realm of the underlying distribution of power among the participating actors. Such an approach is eminently reasonable and acknowledges the full force of power in

⁴ Specifications of the rational design project illustrate this approach. In their model, the distribution of power, which is one aspect of power relations, determines both the outcome variable *control*, which denotes rules for voting and finance and other important decision-making tasks, as well as the independent variable *number*, or the number of relevant actors and their relative capabilities (Koremenos et al. 2001b, 1067). Both are functions of the distribution of power among the actors, yet this aspect of power remains latent in the background and not included among variables in the model.

determining institutional design. However, there is also “nothing new,” or interesting for that matter in this realist approach, since power is given primacy as a determining factor but its significance is largely taken as a given due to its position as a background factor. This approach does not lend itself to an analysis of power itself on institutional design, since what is actually observed and analyzed are the cooperation problems and their institutional solutions. Power remains largely “blackboxed” in the background. Power is assumed to be important, but its impact is assessed largely through the cooperation problems and resulting institutional arrangements.

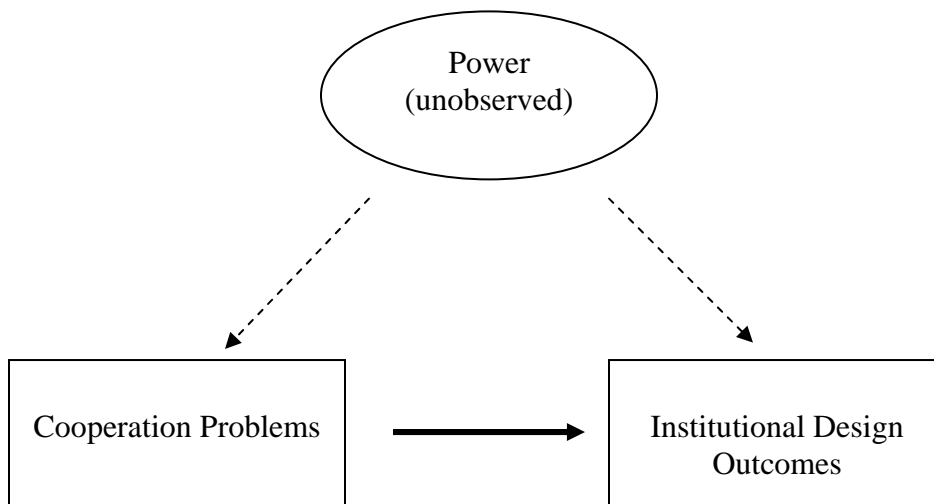


Figure 1a. Power as Contextual Effect on Institutional Design

The alternative, which is the focus of this analysis, is to conceptualize the causal role of power squarely within an analytical framework. Figure 1b illustrates this approach, which specifies power as an independent variable that is observed and whose effect is separable from other independent variables—the cooperation problems. This approach brings power “back into the analysis”, which entails an explicit accounting of *how* power determines institutional design. Power as a direct and independent effect on

institutional design means it is no longer taken as given, as a factor that determines cooperation problems but itself is relegated to a background condition. Put differently, power is moved out of the error term and assumes its “pride of place” in the main model. This facilitates an assessment of power that is separable from other factors determining institutional design and allows for comparisons with them in terms of explanatory power and significance. This approach is also consistent with the rational design project’s conclusion that “nothing precludes power from being incorporated as an additional independent variable” and “we would expect it to improve our understanding of important dimensions of institutions” (Koremenos et al. 2001b, 1068).⁵

⁵ The case studies in the rational design project present strong reasons for considering power as an additional independent variable. In Oatley’s (2001) study of the European Payments Union (EPU), for example, he finds that resolution of the cooperation problems hindering the formation of the EPU is best explained by the critical role of the United States, the leading economy and, indeed, the focal power, whose influence is not captured by any of the independent variables in the existing framework. In another study by Mitchell and Kielbach (2001), which analyzes situation structures and corresponding design options, they argue that cooperation problems in asymmetric situation structures involving upstream perpetrators and downstream victims are resolved either through coercion (sanctions) or exchange (side payments). The choice between the two, however, is strongly dependent on whether the victim is strong or weak, or the relative power between the parties. The prominence of power in these cases strongly suggests that it exerts a significant effect on institutional design and warrants analysis as a separate independent variable.

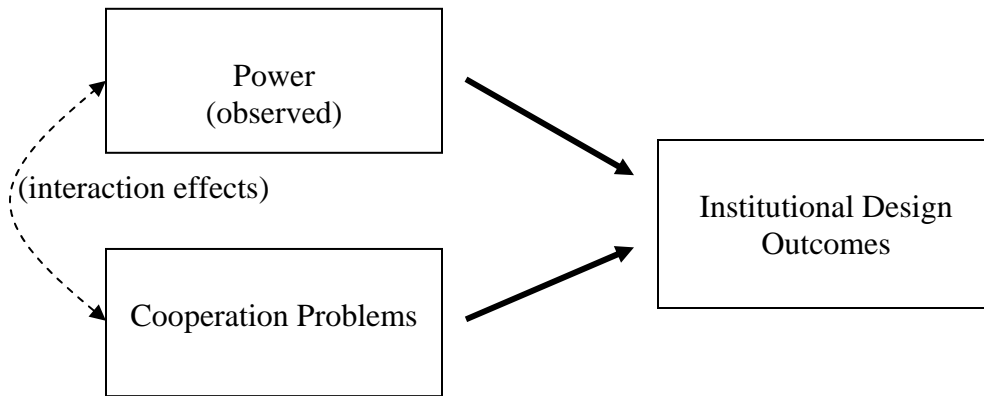


Figure 1b. Power as Direct Effect on Institutional Design'

Modeling power in this fashion in this fashion has two main strengths. First, it helps to identify spurious relationships between cooperation problems and institutional outcomes. Conceptualizing power as a background condition, a contextual factor as in Figure 1a that pervades all aspects of institutional design, is equivalent to associating power simultaneously with both the independent and dependent variables and raises the question of spurious correlation. If variable A, representing some cooperation problem plaguing institutional design, is associated with variable B, a resulting institutional arrangement, and both are associated with a third variable C such as power, any correlation between A and B is spurious, since it is contingent on their mutual association with the third variable C (Collier, Seawright, and Munck 2004, 34). It calls for controlling for the effect of variable C, in this case power, as an independent variable, a “confounder” whose inclusion in the model significantly improves causal inference (Brady and Collier 2004, 280). Moreover, controlling for power by including it as an

independent variable in the model reveals the “true” underlying causal relationship between A (cooperation problems) and B (institutional arrangements).

Second, modeling power as an independent variable also abandons the assumption that power can be “held constant,” as the authors of the rational design project suggest (Koremenos et al. 2001b, 1069). Such a position is problematic, on the one hand, because it precludes the possibility of correlation between power and any of the independent variables, and thus the analytical framework assumes power can be held constant without concern for bias. The analysis here finds strong evidence to the contrary. It finds that power not only exerts an independent effect on institutional design outcomes but is also highly correlated with the independent variables, in particular distribution and uncertainty problems. In the GATT’s design, the U.S. goal of dismantling Great Britain’s Imperial Preferences, a preferential trading arrangement with its dominions, clashed with Great Britain’s efforts to retain them, exacerbating the distribution problem in the negotiations and almost causing their collapse at one point. In addition, institutional preferences originating in the uncertainty of domestic politics in the United States, reflecting uncertainty about the “state of the world,” intensified as well the uncertainty of the rest of the negotiating parties in Geneva, and it led to greater flexibility in GATT’s institutional arrangements. The correlation between power and the independent variables suggests, first, that without the inclusion of power the model would suffer from omitted variable bias and presents yet another reason to bring it explicitly into the analytical framework. In addition, power also has interaction effects, or joint effects in combination with other independent variables.

The other key question in the link between power and institutional design concerns measurement. That is, what aspects of power are most relevant to outcomes in institutional design, and in what form can they be observed in the process of institutional formation? The objective here is not to advance a general definition of power itself, a notoriously difficult and widely contested concept (Gallie 1956), but rather to define it in terms of the properties directly relevant to and observable in the process of institutional formation. The argument advanced here is that the effect of power on institutional design derives from the institutional preferences of the focal actor or hegemon and how it negotiates its preferences vis-à-vis other leading actors. It is how, and how much, the focal actor advances its institutional preferences and negotiates them with other leading actors whose cooperation it needs that provides the causal link between power and institutional design. This approach focuses attention on the role of great power politics in the process of institutional formation, and to this extent the distribution of power remains an important factor. However, it separates the distribution of power, which sufficiently identifies the most powerful actor(s) but remains as a given, from the particular features of their leadership that affect institutional design. This measurement of power draws explicitly into the analysis the particular qualities and preferences of the leading actor(s). Thus it matters greatly whether it is the United States or Great Britain or China that is the focal actor and this is more than a little consequential to what the institution will actually look like.

As participants with the most influence in institutional design, leading actors are identified by their ability to produce focal points (Garrett and Weingast 1993) and comprise the “enacting coalition” (Gruber 2000), the group of “prime movers”

(Moravcsik 1998) that brings the institution into existence. They are characterized as well by the extent of their “compulsory power” (Barnett and Duvall 2005), or their capacity to shape, constrain, and guide the circumstances under which others may take action. This compulsory power includes bargaining power (Fearon 1998; Krasner 1991); coercive power (Martin 1992a); or “go-it-alone power” (Gruber 2000) that involves virtually no coercion but simply the ability of the most powerful to create and derive benefits from a new and exclusive regime without the participation of less powerful actors. It includes but does not require intentionality or coercion, and it encompasses as well the ability to keep certain issues off the agenda (Bachrach and Baratz 1962).

The dynamics of power relations demonstrated through the intensity of the focal actor’s preferences and its negotiations with other leading actors leads to the fundamental bargain that produces a new institution. Resulting institutional arrangements create different forms of “institutional power,” the rules, procedures, and other formal mechanisms that direct others’ actions (Barnett and Duvall 2005: 15-17). These arrangements may take the form voluntary or “imposed” non-voluntary regimes (Young 1983), where the latter may not only be accompanied by coercion and imposition but also co-optation and the “manipulation of incentives” (Gruber 2000: 29). Such regimes may not always be benign, excluding those outside the regime from its welfare-enhancing benefits (Keohane 1984: 73). Institutions may not only make non-participants losers but also create winners and losers within them, often leaving the latter worse off than the status quo (Gruber 2000). In so doing, they “buttress, legitimize, and sometimes institutionalize international patterns of dominance, subordination, accumulation, and exploitation” (Puchala and Hopkins 1983, 66).

In the General Agreement, it was primarily the United States as the “winning state” (Ikenberry 2001) and “privileged group of one” (Martin 1992b, 777) that most influenced its design. U.S. preferences in the Geneva negotiations of 1947, to the extent that they provided key bargaining points and gave rise to critical cooperation problems for the participants, demonstrated how “*American hegemony*,” more than “*American hegemony*,” had a defining role to play in the General Agreement’s formation (Ruggie 1992). At the same time, in seeking cooperation from Great Britain, its chief ally, the United States was also part of the “enacting coalition” (Gruber 2000) that sought to realize joint gains through an international organization to govern post-World War II trade.

The following sections of this paper provide an analysis of power and its impact on the design General Agreement. It focuses on the role of power as a main effect, as observed through U.S. institutional preferences, and as part of interaction effects in combination with distribution and uncertainty problems. The discussion analyzes the effects of these factors on the General Agreement’s institutional provisions.

Power as Main Effect: The Imprint of U.S. Leadership

The United States undoubtedly exerted the greatest influence, economically, politically, and normatively, on the design of the General Agreement. As the leading creditor nation in the aftermath of World War II, the United States was in the strongest economic position to influence tariff negotiations, and it was expected to offer concessions that would expand trade and aid in postwar reconstruction. Its leadership in the political arena, instrumental in constructing the United Nations organization and the

Bretton Woods institutions, afforded it equal influence in the Geneva negotiations. And finally, by virtue of its economic and political position, the United States commanded as well the normative foundations of the postwar peace.

U.S. Preferences on the General Agreement

The influence of U.S. leadership in GATT's institutional design reflects the confluence of three main forces. First, multilateralism provided the foundational principle upon which U.S. planners designed the postwar international order, and it influenced all the institutions that came into being at this time, including the General Agreement. It guided U.S. efforts in forging a "constitutionalist" order (Ikenberry 2000) built on layers of institutions that provide long-term returns to power in place of short term gains achievable through coercion alone. The multilateralism guiding U.S. postwar planning for the trade regime can best be defined as an "architectural form" or a "deep organizing principle"(Caporaso 1992) characterized by generalized principles of conduct as exemplified through the principle of nondiscrimination; indivisibility citing the collective benefits of free trade; and diffuse reciprocity emphasizing aggregate and indirect gains (Ruggie 1992).

Policymakers pursued multilateralism as a response to the bilateralism of the interwar years, identified with "Peekinese economics" (Culbertson 1937) after George Peek, the sometime Special Adviser to the President on Foreign Trade who unsuccessfully attempted to challenge Cordell Hull and his trade agreements program. This bilateralism involved efforts to balance trade on a case-by-case basis with each partner; selective bargaining through the use of the conditional most-favored-nation

provision, in which only states that had granted reciprocal concessions would receive most-favored-nation treatment for their goods; and extensive state intervention in foreign commerce. In Europe where this type of bilateralism ran rampant, states deployed trade and exchange controls such as quotas, subsidies, clearing arrangements and government monopolies that sought to balance trade among particular countries, in an effort to limit hard currency exchanges because they were scarce or to gain political advantage, or both.⁶ It was exemplified most prominently in the New Plan designed by Hitler's finance minister Hjalmar Schacht, which sought to secure the dependence of Southeast European countries on the German export market in order to secure German access to raw materials in these countries (Hirschman 1945[1980]).⁷

After the end of World War II, some two hundred bilateral trade and payments agreements were in operation among European countries (Pollard 1985, 65). Bilateralism denied European countries the opportunity to buy or to sell goods on the most advantageous terms, held down the volume of intra-European trade below prewar levels,

⁶ For a survey of trade and exchange rate policy tools employed in the interwar era of "bilateralism," see Culbertson (1937, Chapter 2 and 6), who regarded it as the "new mercantilism" designed to support autarchy and nationalism. Snyder (1940), in a study of 510 commercial treaties between the years 1931-1939 comprising only half of those actually negotiated, pointed out that "after nearly a century of world trade on a multilateral basis, a new system has developed" (791). The vital element of this system was the trade within a pair of states, considered in isolation from trade with others. It relied far more on bilateral bargains, thus giving short shrift to the principle of equal treatment and the unconditional MFN provision that was the norm of the preceding era. Provisions for quotas and exchange controls became integral instruments for bilateral trade-balancing, reflecting stronger control by governments of foreign trade for political purposes. Such rules greatly hindered the expansion of trade in the interwar years as they defined precisely, in qualitative and quantitative terms, the trade between contracting parties (801).

⁷ During Schacht's short-lived appointment (1934-1937) as Finance Minister under Hitler, Germany had bilateral clearing arrangements with some 25 countries (Neal 1979, 391) to ameliorate its debt position and increase political influence.

and discouraged long-term recovery (Oatley 2001). Such bilateral arrangements were greatly alarming to U.S. officials, who viewed them as key obstacles to the recovery of international trade and political stability, and they saw as a main goal of postwar planning the dismantling of these discriminatory trading arrangements.⁸

The multilateralism espoused by postwar planners also had a strong normative foundation, grounded in the belief of officials in the moral benefits of a liberal order, of which free trade multilateralism was its economic component. U.S. foreign policy took on an “Open Door” orientation, following precedents set by the Secretary of State John Hay and the McKinley Administration at the turn of the century in pursuing an international environment that afforded equal opportunities for all in trade and investment (Eckes and Zeiler 2003, 14). Adherence to multilateralism was also based on the firm belief that trade led to peace and prevented war, well captured in the slogan of the time that “if goods can’t cross borders, soldiers will” (Gardner 1956[1980], 9). It was most strongly held and advocated by Secretary of State Cordell Hull, whose beliefs have had a lasting imprint on the architecture of the postwar order. Postwar planners linked peace with prosperity, and prosperity with free trade as well as stable exchange rates and free capital movements. This normative dimension of U.S. multilateralism resonates strongly with Wendt’s (2001) emphasis on the “logic of appropriateness” as an alternative to the “logic of consequences” (1023-1029). As much as the U.S. influence on GATT was

⁸ Though the currency depreciation and exchange controls attending these trading arrangements are roundly condemned as mechanisms that either caused or continued the Great Depression, this view is not without controversy. For example, Eichengreen and Sachs (1985) argue that in fact, currency depreciation in European countries promoted growth, affecting a rise in real wages and exports, higher levels of competitiveness, and lower interest rates. More widespread adoption of such policies, they argue, would have benefited the global economy and brought countries out of the Great Depression.

strategic in the sense that it reflected core security interests in the economic realm, it was also very much driven by the normative concerns of the policymakers involved and the fact that these same officials were involved, to varying degrees, in negotiating the establishment of all U.S.-led postwar institutions (Burley 1993).

Second, Cold War imperatives entailed gearing foreign policy toward the reconstruction of key U.S. allies, especially in Europe. Institutional choice surrounding the General Agreement had as much to do with U.S. security imperatives as with market and efficiency considerations. U.S. preferences were thus strongly driven by the “high” politics of national security. The British financial crisis in 1947, the result of a short-lived period of convertibility for the sterling, provided the final evidence of the decline of Great Britain as one of the three superpowers after World War II.⁹ The withdrawal of British forces from Greece and Turkey, and America’s filling of this political vacuum with the promulgation of the Truman Doctrine on March 12, 1947, officially marked the transition of the international system into bipolarity.

As the Cold War became the main focus of foreign policy, U.S. foreign policy under the Truman Administration pursued the containment of Soviet power and influence through a combination of economic aid with political support to the “strongpoints” in Europe and Asia, namely Great Britain, France, Germany, and Japan (Pollard 1985, 240). The U.S. security agenda was directed towards strengthening its major allies, especially

⁹ In accordance with the Anglo-American Financial Agreement of 1945, the British pound became convertible again on July 15, 1947. The subsequent weeks brought steep declines in Great Britain’s dollar reserves: \$106 million in the week beginning July 20, \$126 million in the following week, \$127 million in the week after that, and reaching \$184 million by week ending on August 16 (Gardner 1956[1980], 312). To maintain its reserves at \$2.5 billion, the British government took heavy drafts on the \$3.75 billion loan from the U.S, and by August 16 only \$850 million remained in the line of credit (312). The British government suspended convertibility on August 20, 1947.

in Europe, reflecting the prevailing view of the importance of security dividends from a strong Western subsystem. This was reflected in the General Agreement as well, as tariff concessions were frequently directed towards the goods of major allies whose expansion of trade would have security dividends for the United States.¹⁰ The case of the General Agreement demonstrates how security considerations among the great powers came to shape the governance of the global trading system.

Finally, U.S. preferences on the GATT's institutional design were shaped by domestic politics, chief among them the provisions of the Reciprocal Trade Agreements Act (RTAA). Domestic divisions over trade policy significantly curtailed the "win-set" (Putnam 1988) available to U.S. negotiators in Geneva. Cordell Hull's successful pursuit of the RTAA's passage in 1934 had marked an institutional "turning point" (Haggard 1988), as for the first time in U.S. trade politics history, Congress granted effective

¹⁰ Cold War imperatives also entailed restricting trade with Communist countries. Truman invoked the escape clause in 1950 and withdrew concessions on fur felt hats and bodies, thus restricting imports from Czechoslovakia. Truman further restricted trade with the Soviet Union and its satellites by signing in August 1951 a proclamation that suspended trade agreement concessions to the Soviet bloc, including Czechoslovakia, the People's Republic of China, and Vietnam. Communist China withdrew from the GATT in 1950, and Cuba walked out of the Annecy negotiations in 1949 when it refused to renegotiate its sugar preferences with the United States.

authority to the Executive for setting tariffs.¹¹ Nevertheless, the RTAA necessitated several practices that later became the bargaining protocol adopted in the General Agreement. It entailed adherence to item-by-item negotiations on tariffs, and the executive could not carry out, as the British would later argue for in the Geneva negotiations, unilateral or any form of across-the-board reductions in American tariff rates (Gardner 1956[1980], 22). Trade agreements were also concluded through bilateral accords in an effort to ensure reciprocity in the reduction of tariff barriers. The bilateral bargaining method was considered to impose the least disturbance to domestic producers and to secure for American exports concessions that reciprocated those made by the United States on its imports (Curzon 1965, 129).

Most importantly for the General Agreement, trade agreements adhered to the principal supplier rule, where the United States would offer concessions to the chief source of imports for a particular good and seek concessions on the United States' main export to that particular country. The principal supplier rule was justified largely on economic grounds, both in its benefits for the customer of lower prices (Taussig 1892)

¹¹ For alternative views on how the RTAA was shaped by domestic forces and how this in turn affected trade liberalization in the U.S., see Hiscox (1999), Schnietz (2000), and Destler (2005). Schnietz, in particular, argues that the RTAA was intended on the part of its supporters to protect the Democrats' low tariff policy from future reversals by Republicans. It "institutionalized" a low tariff policy and led to a durable low tariff policy, one that could not easily be turned over, as had been done in previous years, by a Republican-controlled Congress. On the other hand, Hiscox (1999) argues that the resilience of the RTAA is attributable more to exogenous changes, chiefly the postwar boom in U.S. trade, which shifted the support base of the Republican party in favor of export-oriented constituencies of the South and West. Combined with the long-term shift as well in U.S. comparative advantage toward capital intensive industries, such trends resulted in a wholesale shift in support of liberalization for the Republican party.

and the U.S. bargaining position vis-à-vis trading partners (Culbertson 1937, 72).¹² It was thought to maximize bargaining leverage for the U.S. by concentrating on the partner country's largest export product. The U.S. would be able to secure the lowest tariff barriers through negotiations with the most important supplier of a good rather than with a smaller supplier (Butler 1998, 104). The bilateral approach to bargaining in trade agreements was reconciled with multilateralism by way of the unconditional most-favored-nation provision, included in all trade agreements negotiated under the RTAA.

Effect on the General Agreement: Normative Foundations and Centralization

U.S. leadership and its position as the focal power in the Geneva negotiations influenced the design of the General Agreement in two main ways. First, the multilateralism espoused by the United States became enshrined in the General Agreement's guiding principle of non-discrimination, provided for in the unconditional most-favored-nation (MFN) provision.¹³ As Curzon (1965) emphasizes, "non-discrimination is probably the most important single concept that informs Gatt" (57). Sir Eric Wyndham White, Director-General of the GATT for the first two decades of its existence, similarly referred to non-discrimination as the "cornerstone" of the regime

¹² "In the first place, there must be a sufficient field for tariff bargaining. This exists when the other country concerned is an important, usually the principal, supplier of one or more articles which might be made the subject of tariff commitments on our part. Tariff reductions on commodities of which the country concerned is not an important supplier are scarcely feasible since they would unduly diminish the basis for negotiation with the country which is the principal supplier." (Culbertson 1937, 72).

¹³ Insertion of the unconditional MFN clause was part of the U.S. *Proposals for the Expansion of World Trade and Employment*, delineating the Roosevelt and later Truman administrations' plans for post-World War II reconstruction. It also received the support of Great Britain, which agreed with it as a basis of the post-World War II trading arrangement (Curzon 1965, 61).

(Finlayson and Zacher 1981, 566). Article I of the General Agreement thus reads, "...any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties."

The normative basis of the unconditional MFN provision was, and continues to be, equality of treatment. It is synonymous with "generalized principles of conduct" that is a key property of multilateralism (Ruggie 1992). In his analysis of the unconditional MFN clause, Curzon's (1965, 68) argues that the multilateral context of the unconditional MFN provision made it all the more significant. Unlike in bilateral agreements where the provision secured the best possible treatment only for the two parties involved, the General Agreement's multilateralism clause contained the recognition that discrimination only leads to more discrimination and in the long run everyone would lose, even if some may benefit temporarily. It thus secured, at least in principle, a commitment to the benefits of nondiscrimination in international trade.¹⁴ Although significant exceptions allowing for flexibility would follow in negotiating the General Agreement, its institutional arrangements were nevertheless formed under the central norm of multilateralism guiding U.S. leadership, and the principle of non-discrimination has

¹⁴ The nondiscrimination principle is attended by the other "pillar" of the GATT: the principle of reciprocity (Bagwell and Staiger 1999: 217). Reciprocity involves the exchange of "concessions," in which one country agrees to reduce its protection of trade in return for the same from a trading partner, thus resulting in a mutual exchange that is likely to lead to equal changes for both countries' imports. The GATT relies also on "first-difference" reciprocity, emphasizing equality in changes and reductions of tariffs from their initial levels. This is distinguishable from and arguably a piece-meal effort toward "full" reciprocity, which emphasizes reciprocity of overall market access and a "level playing field" in trade relations (Bhagwati and Irwin 1987,117).

endured as a long-standing norm to guide international economic activity after World War II.¹⁵

Second, U.S. leadership also led to centralization in the GATT. It centralized bargaining through “clustering” (Pahre 2001), bilateral negotiations taking place simultaneously among the 19 negotiating units representing 23 countries.¹⁶ The bilateral agreements that resulted from the negotiations were then combined, thus forming the General Agreement on Tariffs and Trade. More importantly, however, the GATT’s institutional arrangements centralized bargaining *power* in the group of principal suppliers that comprised the main negotiating parties. This was result of applying U.S. practice in implementing the Reciprocal Trade Agreements Act.

The principal suppliers among which the negotiations were centralized were the large trading nations in the group of 23 contracting parties. The group included the great powers and key European economies—the United States, the United Kingdom, France, Canada, and the Benelux countries as a group. Together they represented over three-

¹⁵Aversion to discriminatory arrangements, especially those reminiscent of the interwar period, persisted in policy circles well into the post-World War II era. In his study of the collapse of the Bretton Woods system, for example, Gavin (2004) notes that the fear of abandoning the gold standard and adopting a floating exchange rate regime was in great part driven by the view of policy makers that this was to blame for the collapse of the world economy in the interwar years, pushing countries to promote autarchic economic policies, support dictatorships and eventually war. Gavin notes, “Any situation that remotely looked like a repeat of the 1930s was to be avoided at all costs” (25)

¹⁶ The final negotiating units included the first 16 consisting of Australia, the Benelux Customs Union (Belgium, Luxembourg, and the Netherlands), Brazil, Canada, Chile, China, Cuba, Czechoslovakia, France, India and Pakistan, the Lebanon-Syrian Customs Union, New Zealand, Norway, South Africa, the United Kingdom, and the United States. Burma, Ceylon, and Southern Rhodesia signed the agreement separately from Great Britain, though the latter carried out the initial negotiations. Similarly, India conducted the initial negotiations, but Pakistan, which became newly independent during this time, signed the Agreement separately (USTC 1948, Part II, 19, 40).

quarters of the trade conducted by all 23 contracting parties in the Geneva Agreement.¹⁷ They included the most important trading partners of the United States, as reported by the U.S. Tariff Commission (1948).¹⁸ Moreover, the members of this group included the large economies that U.S. officials considered critical to European reconstruction and the containment of the Soviet threat on the continent.¹⁹ Thus in centralizing bargaining among the principal suppliers, U.S. leadership had the effect as well of centralizing bargaining power.

For the United States, the item-by-item approach to tariff cuts conformed to the requirements of the Trade Agreements Act and at the same time enabled U.S. officials to concentrate concessions among the key beneficiaries of postwar planning, the large economies of Western Europe. Centralization in the General Agreement is closely related to its conceptualization in Oatley's (2001) study of the European Payments Union, in which the United States was the main source of capitalization (958-959). As the main creditor and leading economy after the war, the United States was in the strongest position to affect the course of the trading system. It did so by concentrating its concessions on goods from countries critical to its postwar reconstruction goals. Over

¹⁷ *General Agreement on Tariffs and Trade* (1947), Annex H.

¹⁸ These countries are included among the group (A) countries, which accounted for, in 1939, over half of U.S. imports and exports (USTC 1948, Part III, 58)

¹⁹ Germany and Japan, as important U.S. Cold War allies, fared differently under the GATT regime. U.S. officials came to recognize that European reconstruction required Germany's participation and pursued its successful accession to the GATT in 1951. Japan's accession, however, did not occur until 1955, due to opposition especially from countries with strong textile interests, and was consistently the target of Article XXXV invocations, the "non-application" clause (Curzon 1965, 67). U.S. efforts to obtain membership for Japan failed in Annecy in 1949 due to opposition by Great Britain and other European countries (Lipson 1982, 250 n.58). Even in securing Japan's accession, the U.S. offered generous concessions to European countries in return for the latter's granting of concessions to Japan.

half, or 52% of the dollar amount of U.S. concessions in Geneva were granted on goods from major allies and European economies—Canada, the United Kingdom, and France.²⁰ U.S. multilateralism was thus tempered by considerations of European security and especially British economic strength and recovery.²¹

The main effect of power, as demonstrated through U.S. influence in the GATT's institutional design, provided the normative foundations of GATT's institutional design and led to centralization in its main task of bargaining on tariffs. The preferences of the United States were a product of the multilateralism of postwar planners, the security imperatives of the Cold War, and the constraints of domestic politics. Its role as the focal power led to centralization in bargaining, in terms of who bargained—the principal suppliers, and on what goods—those from countries whose economic recovery through trade was critical to European reconstruction. In doing so, the General Agreement centralized as well bargaining power among the major powers and key U.S. allies in the Cold War, thus embedding these power relations in GATT's institutional design.

²⁰The figure is derived from the State Department's *Analysis of General Agreement on Tariffs on Trade* (1947, 136-137). Of the approximately \$1.34 billion dollars worth of concessions made by the U.S. in Geneva, including reductions in duties, tariff bindings, and duty-free items, approximately \$691 million (52%) were granted on goods from these three major powers. If extended to include trade also from Belgium, Netherlands, and their respective colonies, they comprised just about two-thirds (66%, or \$882 million) of U.S. total U.S. concessions. These figures were calculated on the basis of value of imports in 1939.

²¹U.S. support to key Cold War allies within the GATT would extend as well to smaller economies such as Italy after its accession. In Ancey in 1950, for example, U.S. negotiators granted a concession on lemons, a key export for Italy, and cut its tariff by 50 percent. Truman, ignoring the peril point limits on lemon imports, supported the concession to aid in Italy's economic stability, prevent Communist insurgency in Sicily, and secure Italy's allegiance to NATO (Zeiler 1999, 177).

Interaction Effects I: Power and Distributional Conflict

Power in the GATT's institutional design also had significant interaction effects, where the focal actors preferences in combination with other independent variables jointly determined institutional design outcomes. The most important of these were distribution and uncertainty problems.²² First, the distribution problem in the GATT's design centered on the resolution of conflict between its two most powerful participants, Great Britain and the United States.²³ U.S. goals of dismantling discriminatory trading arrangements clashed most strongly with Great Britain's intention to retain Imperial Preferences, and in this way the distribution problem was intensified by strong U.S. preferences on this particular issue. The Anglo-American conflict became the distribution problem most critical to the GATT's institutional establishment. Despite the multilateral context of the Geneva negotiations, the importance of Anglo-American agreement had the result of rendering a strong bilateral aspect to the bargaining process (Diebold 1988, 12).

²² While the focus of this paper is on the interaction of power with uncertainty and distribution problems in the GATT's design, the latter variables had individual main effects, or "lower order" effects of their own, though they did not figure as prominently in determining institutional design outcomes. These included the distribution problem surrounding special treatment for developing countries, which was more prominent in negotiations over the ITO Charter, and uncertainty more generally among the Geneva negotiating parties. The flexibility provisions of the General Agreement partly reflected the resolution of these cooperation problems. On the importance of "lower order" effects in models with interactions, see Braumoller (2004) and Brambor, Clark, and Golder (2005).

²³ The positions of power held by the United States and the United Kingdom were evident as well in the construction of other postwar institutions, such as during Bretton Woods conferences: "there were few instances in which countries other than the United States and United Kingdom were able to influence the final outcome" (Mikesell 1994, 3).

The distribution problem resolved by institutional arrangements involves choosing from among a known set of alternatives.²⁴ Negotiations over the General Agreement centered on problems not of collaboration (or Prisoner's Dilemma) but rather of coordination (Stein 1982; Snidal 1985). As such, rather than focusing on monitoring and sanctioning mechanisms, negotiations centered on how and what form of cooperation was to be achieved through the GATT's institutional arrangements. Actors, especially the major powers, were already agreed on the need for cooperation in reducing tariff barriers. Conflict over institutional design occurred because actors could not agree on which cooperative arrangement to adopt, posing a coordination problem for actors to resolve as they negotiated on outcomes along the "Pareto frontier" (Krasner 1991; Sebenius 1991).²⁵ In negotiations over the reduction of trade barriers, distributional conflicts arose

²⁴ The distribution problem is essentially the relative gains problem (Grieco 1988, 1990; Krasner 1991; Mastanduno 1991; Powell 1991; Snidal 1991a, 1991b) applied to institutional design. The degree to which relative gains become prominent in institutional choice depends on the particular "game" that is at play. Relative gains considerations are strongest in zero-sum or collaboration games, but in coordination games as in the case of the GATT, institutional design involves choosing from among different Pareto-improving outcomes, all yielding "absolute gains," or gains vis-à-vis the status quo for each participating state yet not altering the relative positions of states in the international distribution of power (Grieco 1988, 502; 1990). In such a scenario, states may seek to maximize relative and absolute gains (Stein 1990, Chapter 5) or to balance short term absolute gains from cooperation with long-term absolute gains (or losses) in security as reflected in its position in the international distribution of power (Snidal 1991, 704).

²⁵ The distribution problem underlying a coordination game is typically represented as a Battle-of-the-Sexes game. See also Garrett and Weingast 1993; Martin 1992b; and Morrow 1994. In particular, Morrow (1994) identifies four distinguishing characteristics of distribution problems: i) several Pareto-improving solutions exist; ii) all are better off coordinating on one solution rather than individually different solutions; iii) there is uncertainty on the part of actors about their own preferences, though some information is available on what each may prefer; and iv) given this uncertainty, actors have divergent preferences in the ranking of the institutional arrangements (391-392). These problems are specific to the institutional design, or bargaining phase (Fearon 1998), and their resolution precedes issues of enforcement, i.e., "there is nothing to enforce without an agreement" (Morrow 1994, 393).

over which countries would lower or eliminate how much of their tariffs or trade preferences. It was a “bargaining problem,” with multiple possible arrangements that all parties prefer to no agreement, but where the parties disagree in their respective rankings of preferred arrangements (Fearon 1998, 274). Because early outcomes resolving distributional problems are subject to long term consequences, institutional formation entails high contracting costs, demonstrating “Fearon’s dynamic” (Rosendorff and Milner 2001, 850) where the long shadow of the future makes it more difficult to strike the initial bargain.

The Anglo-American Distributional Conflict

The Anglo-American conflict over Imperial Preferences, tariff preferences negotiated among Great Britain and its dominions Canada, Australia and New Zealand in the Ottawa Agreement of 1932, was the single most difficult obstacle to the conclusion of the General Agreement in Geneva (Gardner 1956[1980], 355).²⁶ At the heart of the disagreement were the differing positions on the nature and priorities of the postwar order. Postwar planners in the U.S. State Department were intent on the revival of an

²⁶ On the provisions of the Ottawa Agreement and its impact on Dominion trade and especially U.S. trade with Great Britain, see Glickman 1947. Anglo-American conflict over Imperial Preferences actually began during the war. In negotiating Article VII of the Lend-Lease Master Agreement with Britain, signed February 23, 1942, the United States in the end did not compel Britain to relinquish trade preferences. Though Article VII did call for an end to trade discrimination and the reduction of trade barriers, the provision was qualified by the insertion of the phrase “mutually advantage economic relations” as a condition for such goals (Zeiler 1999, 26). Similarly in negotiations over the provisions of the Atlantic Charter, announced on August 14, 1941, shortly before negotiations resumed over the Lend-Lease Agreement, Point Four, which provided for commitment to liberalize postwar trade, included the phrase “with due regard for our present obligations,” which Britain inserted in order maintain preferences for the Commonwealth (26).

open global trading order, but the British wartime cabinet prioritized full employment and economic stability. The former entailed the dismantling of trade barriers, a main target of which included the system of Imperial Preferences under the Ottawa Agreement, characterized by Secretary of State Cordell Hull as “the greatest injury, in a commercial way, that has been inflicted on this country since I have been in public life”(Pollard 1985, 12).²⁷ The latter, on the other hand, implied the maintenance of Imperial Preferences and even bilateral arrangements to balance trade.

In the end, the negotiations in Geneva were saved by a compromise: the U.S. would agree to the continuation of Imperial Preferences, and in return, Great Britain agreed not to increase them.²⁸ The onset of the Cold War had greatly privileged the position of Great Britain, who was described by Speaker of the House Sam Rayburn as “our great natural ally” (Gardner 1956[1980], 251).²⁹ Britain was a key component of U.S. security, as a strong and prosperous Britain would lead, it was believed, to an equally prosperous and democratic Europe that would stand as a bulwark against Soviet expansionism. The emergence and resolution of distributional issues in the GATT

²⁷ Glickman (1947) argues, however, based on aggregate trade figures and an analysis of the changes in the composition of trade, that U.S. trade was “not greatly injured” (468) by the Imperial Preference system.

²⁸ Zeiler (1999, 108-121) provides an excellent account of the drama surrounding the Anglo-American agreement, which did not conclude until October 17, 1945, two days past the official termination date, held up agreements with the dominions, and generally held the entire fate of the GATT hostage.

²⁹ In the Congressional debate on the Anglo-American Financial Agreement of 1945, for example, which provided a \$3.75 billion line of credit for Great Britain to aid in its postwar recovery, supporters argued that approval of the loan agreement would greatly determine the future of the international order, between one with cooperation between British and American spheres or a British and Soviet spheres.

negotiations were in this way fundamentally shaped by the great power politics of the Cold War and the need for solidarity within the Western alliance.

Related to the issue of Imperial Preferences and also a significant source of distributional conflict was the formula for tariff reductions. British officials called for an across-the-board tariff reduction. This had been the central recommendation of the Overton Report, the British plan for the postwar economic order. It recommended tariff reductions on a sector-wide basis, so as to encourage more sweeping concessions from the United States, in return for a “radical diminution of Imperial Preferences” from Great Britain (Zeiler 1999, 29). The sectoral approach to tariff cuts was also preferred by the Executive Committee on Foreign Policy in the United States, as it imposed a more precise obligation to participating countries. Nevertheless, U.S. officials recognized that such an approach would have difficulty finding support. Provisions placing a ceiling on tariff levels and an across-the-board formula for tariff reductions were beyond the authority granted by the Reciprocal Trade Agreements Act. Instead, U.S. planners considered an alternative method to tariff cuts that better suited its provisions. This alternative proposal called for simultaneous negotiations of bilateral accords among pairs of countries on a product-by-product basis, with concessions being generalized to a “nuclear” club of major nations (Zeiler 1999, 43). Such an approach was consistent with the Trade Agreements Act, as it entailed tariff reductions on selected items among principal suppliers that were generalized through the unconditional MFN clause. This was the bargaining protocol that would eventually be implemented in Geneva.

Effect on the General Agreement: Flexibility

The Anglo-American distributional conflict was resolved through flexibility in the General Agreement. This flexibility was adaptive, designed to take account of special circumstances, rather than transformative, which entails a more profound renegotiation of institutional arrangements (Koremenos et al. 2001a, 773). Flexibility provisions in the General Agreement as a whole took the form of “exceptions” to the principle of non-discrimination and the unconditional MFN clause. They resolved not only problems of distribution but also uncertainty problems which figured as prominently in the Geneva negotiations and are discussed in the next section. The Anglo-American distributional conflict was resolved through Article I, paragraph 2, which allowed for the continued application of existing preferences in accordance with the compromise between the United States and Great Britain. It was specifically designed to accommodate the existing system of Imperial Preferences, but the United States was also able to grandfather preferences it had granted to Cuba in 1903 and to the Philippines in 1946 when it became independent.

The exception allowing the continued application of existing preferences immediately follows the unconditional MFN clause in Article I, paragraph 1. Its position in the General Agreement suggests that existing preferences, and in particular Great Britain’s Imperial Preferences, comprise the most important “exception” to the non-discrimination principle, at least at the time it was instituted.³⁰ Nevertheless, it was qualified by the other half of the Anglo-American compromise, that preferences would

³⁰ Curzon (1965) argues that preferences did not long continue to be the thorny issue that it was in 1947. By the 1960s, Curzon notes, “It hardly seems credible that the American negotiators’ failure to dislodge Imperial Preferences in 1947 should have been one of the bigger stones thrown at the [ITO] Charter and the Agreement.” (76).

not be increased. As specified in the London Suggested Charter for the International Trade Organization (ITO), GATT's intended parent organization whose provisions would later be incorporated into the Agreement, there were three specific limitations on continued preferences. First, there would be no new goods on which preferences would be applied and existing margins of preference would not be increased. Second, in the event of reductions in MFN rates, this would automatically reduce or eliminate the present margins of preference. Finally, existing international commitments would not stand in the way of agreements in reductions in preferences (Gardner 1956[1980], 348).³¹

Interaction Effects II: Power and Uncertainty about the State of the World

The second key factor influencing the General Agreement's formation was uncertainty, which the rational design project proposes as a new variable to consider in the study of institutional design (Koremenos et al., 2001a, 774). The uncertainty problem most applicable to the Geneva negotiations is uncertainty about the "state of the world," an information problem (Morrow 1994), or the lack of knowledge about future circumstances and the consequences of particular choices.³² Of particular importance to this analysis is the conceptual development provided in Rosendorff and Milner (2001). Their study analyzes the role of domestic politics as an important source of uncertainty about the state of the world and how it affects the design of trade institutions. They argue

³¹, *Havana Charter for an International Trade Organization* (1948), Article 17.

³² The rational design project also distinguishes between uncertainty about preferences and uncertainty about behavior, but these figured less prominently in the GATT. Requests and offers for tariff concessions were circulated among all contracting parties before the start of negotiations, thus reducing uncertainty about preferences. The tariff schedule, which specifically listed reduced or bound rates of duties on negotiated goods, lessened uncertainty about behavior, though nontariff barriers such as import controls and quantitative restriction still posed problems for assessing compliance.

that safeguards such as escape clauses are an “efficient equilibrium under conditions of domestic uncertainty” (831).³³ Where the future of domestic support for free trade or protection is difficult to predict, safeguards allowing for flexibility make trade-liberalizing agreements more politically viable. Along similar lines, this study also finds that uncertainty regarding domestic political support for free trade and trade liberalization in the United States shaped its institutional preferences and was a significant factor leading to flexibility in the design of the GATT.

Uncertainty in U.S. Politics

Uncertainty about the state of the world began essentially with the question of domestic support in the United States for its leadership in the overall postwar order. This uncertainty played a prominent role in postwar planning during the war. During the Roosevelt Administration, officials of the Political Subcommittee noted that “one of the principal elements of *uncertainty* in our preparations for the peace was the question of how far public opinion in this country would be willing to go in international cooperation after the war.” (Notter 1949, 195, emphasis added).³⁴ The experience after the First World War with the Treaty of Versailles and especially the League of Nations was still fresh in the public’s mind. Any participation by the United States in a postwar system

³³ Horn, Maggi, and Staiger (2006) similarly argue that where uncertainty concerns domestic demand, or shocks in the volume of trade, the inclusion in trade agreements of escape clauses may be optimal and appealing to governments as they allow discretion over domestic policy instruments (4).

³⁴ Harley Notter’s documentation of postwar planning in the State Department between 1939 to 1945, undertaken at the request of President Truman, provides a detailed narrative prepared from “thousands of minutes of meetings, memoranda, reports, telegrams, drafts and revisions of studies, notes on personal ideas and suggestions, as well as matured papers containing recommendations and proposals” (Notter 1949, 3).

that involved a formal organization for international cooperation depended on Congressional approval. The prospects for participation would be adversely affected by a negative or even indifferent public reaction to such participation. Officials involved in postwar planning recognized the possibility that any U.S. proposal, even if accepted by the Allies, may fail to be endorsed by the American people and the Congress, thus significantly weakening the U.S. position (Notter 1949, 195).

The fate of the Reciprocal Trade Agreements Act came to be the focal point of the uncertainty problems plaguing the Geneva negotiations. The source of the uncertainty associated with the RTAA was its temporary nature, being subject to renewal and thus to the vagaries of Congressional politics at each round. The politics surrounding its renewal heightened the uncertainty among postwar planners in the United States, who could not predict with confidence the level of Congressional support for the reciprocal trade agreements program. For example, in the renewal of 1943, in the midst of the war, legislators were concerned about the “unpredictable economic conditions which would confront the United States when the hostilities ended” (USTC 1948, Part II, 13). Hence the RTAA was renewed, though in its original form, for a period of two rather than the three years as in the previous renewals of 1937 and 1940.

Congress renewed the Trade Agreements Act in 1945 as World War II was drawing to a close, this time for a period of three years until 1948. In the Congressional hearings and debates that preceded the renewal, attention was focused “on the question of adequate safeguards for domestic producers in the event of further duty reductions, especially in view of the *uncertainties of the postwar period*” (USTC 1948, Part II, 15, emphasis added). It was at this renewal that Congress received assurance from the

Truman administration of a comprehensive “escape clause,” similar to that which had been included in the trade agreement with Mexico in 1942, that would be included in all future trade agreements.³⁵ This ensured that future trade agreements would go further “to avoid serious injury to domestic industries and to afford adequate safeguards” (15). The specific measures authorized by the escape clause included the withdrawal of previously granted concessions as well as their modification, through the imposition of quota limitations on imports or other such restrictions, when “found necessary to prevent or remedy serious injury to domestic producers” (15). On February 25, 1947, only a few months before negotiations began in Geneva, Truman issued Executive Order 9832 that required every agreement thereafter entered into under the authority of the RTAA to include an escape clause.³⁶

Uncertainty and the Geneva Negotiations

The uncertainty of trade politics in the United States exerted a powerful impact on the position of many of Geneva’s negotiating teams. The British, more than any other by

³⁵ This was a compromise for the Truman Administration, which had to contend with Republican leaders such as Senators Vandenberg and Millikin, who represented Congress’ skepticism regarding the economic benefits of the RTAA and especially the outcome of the Geneva negotiations that were about to begin. The senators wanted to limit future tariff concessions through the insertion of peril points for the next renewal of the RTAA. Although Truman rejected this proposal, he did accept the other proposal that escape clauses be inserted in all future trade agreements.

³⁶“There shall be included in every trade agreement hereafter entered into under the authority of the said act of June 12, 1934, as amended, a clause providing in effect that if, as a result of unforeseen developments and of the concession granted by the United States on any article in the trade agreement, such article is being imported in such increased quantities and under such conditions as to cause, or threaten, serious injury to domestic producers of like or similar articles, the United States shall be free to withdraw the concession, in whole or in part, or to modify it, to the extent and for such time as may be necessary to prevent such injury” (Executive Order, 9832, Part I, Article 1).

virtue of its position as a major power and key player in the post-World War II order, were skeptical of U.S. commitment to trade multilateralism in the long term. Its domestic situation, marked by huge trade deficits late in the war, made the British reluctant about adopting American multilateralist programs. British officials also questioned the strength of U.S. commitment: “What assurance, they asked, did Britain have that American isolationism would not reemerge after the war, just as it had after World War I?” (Pollard 1985, 67) Following the American multilateralist trade program might in fact worsen Great Britain’s balance of payments position and bring a halt to their efforts toward full employment.

Concerns about the renewal of the RTAA, and if renewed, what form it would take in the way of protectionist provisions such as peril points, compelled U.S. allies to seek even greater concessions from the United States. The uncertainty problem was centered on the prospect that they may be granting concessions only to have the United States, in the renewal of the Trade Agreements Act, “defect” later on by putting up protectionist barriers (Zeiler 1999). Even during the negotiations, the leader of the British delegation Sir Stafford Cripps pointed out that Britain was at a disadvantage. Imperial preferences were permanently bound against increases; however, U.S. tariff concessions were bound only for three-year periods, and even then those could be withdrawn at any time under the escape clause. He emphasized that concessions had to be “mutually advantageous...not just in terms of paper concessions, but in terms of trade likely to flow.” (Gardner 1956[1980], 356).

The uncertainty problem also had the effect of intensifying the major distributional conflict at the Geneva negotiations. Events such as the Republican victory

in the Congressional elections of 1946, Executive Order 9832 mandating the escape clause, and the U.S.-Philippine trade agreement of 1946 that granted special preferences to the newly independent country, heightened the uncertainty regarding U.S. commitment to trade multilateralism in the long term and in turn intensified the distributional struggle among the major powers. For the British in particular, these developments served to indicate the lack of assurance in U.S. commitment to multilateralism and tariff reductions. As a consequence, the British side felt more urgently the need to hedge its bets and hold onto Imperial Preferences.

Effect on the General Agreement: Flexibility

Institutional preferences originating in the uncertainty of postwar domestic politics in the United States heightened as well the general uncertainty faced by countries in the Geneva negotiations, and it led to greater flexibility in the General Agreement's design. This flexibility was adaptive rather than transformative, as was the case for addressing the distributional problem, allowing the institution to accommodate "defections" due to special circumstances while retaining the institution itself.

Flexibility provisions to address problems of uncertainty in the General Agreement took three main forms. First, the escape clause in Article XIX provided for emergency action on imports as a result of unforeseen circumstances. It allowed contracting parties to suspend, withdraw, or modify a concession on a particular good if imports of the good "cause or threaten serious injury" to domestic producers of "like or directly competitive products," and for the time it takes to "prevent or remedy such

injury.”³⁷ This provision was a direct translation of U.S. preferences onto the General Agreement.³⁸ It conformed to Executive Order 9832 under the Truman Administration in 1946, which required the insertion of an escape clause in all future trade agreements and which had been promised earlier by Truman to address concerns of postwar uncertainty in the RTAA renewal of 1945.³⁹

Second, the general uncertainty facing many of the GATT contracting parties, chiefly the result of uncertainty in U.S. trade politics but also of domestic uncertainty in other countries, led to a host of “exceptions” to the unconditional MFN provision and to the nondiscrimination principle. As a group they make up the “compromise of embedded liberalism” that characterized the post-World War II trading order (Ruggie 1982), reconciling the imperatives of a liberal international trading order with the exigencies of domestic economic priorities. In the language of the rational design project, they also functioned as mechanisms of adaptive flexibility and allowed for institutional arrangements to make allowances for special circumstances affecting countries’ capacities to conform fully to a multilateral trading order. From a long-term view, it provided mechanisms to increase the cost of exercising the “exit option” (Hirschman

³⁷ *General Agreement on Tariffs and Trade* (1947), Article XIX, subparagraphs (a) and (b).

³⁸ According to Goldstein (1993), the escape clause was one of four exceptions in the GATT on which the U.S. position was non-negotiable. The others included the exception for agriculture under the prohibitions on quantitative restrictions and export subsidization; and suspension of obligations for reasons of national security (218).

³⁹ Though Truman would invoke the escape clause in December 1950 and withdraw U.S. concessions on fur felt hats and bodies (Zeiler 1999, 185), it would be invoked rarely in subsequent years (Goldstein 1988, 189). Rather, contracting parties relied more on antidumping and countervailing duties to respond to sudden surges in imports (Curzon 1965) and these later become important elements of flexibility in the evolution of the GATT system.

1970) but also to minimize the cost of adhering to the institution should domestic opposition threaten the continuation of the institution in the future.

Part II of the General Agreement, which incorporated the provisions of Chapter V of the ITO Charter that was never ratified, contains the major flexibility mechanisms. They include the provision allowing import restrictions for balance of payments reasons (Article XII). Article XIII requires nondiscriminatory use of quantitative restrictions if they should be applied, but Article XIV allows for departures from this rule if it allows them to obtain additional imports without “unduly depleting their monetary reserves.”⁴⁰ Import restrictions were also permitted for economic development reasons (Article XVIII), and national security exceptions were also permitted (Article XXI).⁴¹

The most significant of these flexibility provisions are those that would have lasting effects on the development of the global trade system, namely Article XXIV permitting customs unions and free trade areas, and Article XI, paragraph 2, that provided for exceptions in agriculture.⁴² Though plagued by imprecision and ambiguities (Pomfret 1988, 62-64), the customs union provision allowed preferential arrangements directed toward the reduction of tariffs, so long as the margin of preference was “not on the whole higher” than those before the union and it was formed “within a reasonable amount of

⁴⁰ *General Agreement on Tariffs and Trade* (1947), Article XIX, 1(a).

⁴¹ Article XXV may also qualify as a flexibility provision, as it allows a country to “waive an obligation” imposed by the Agreement. However, unlike the other exceptions that allow unilateral action that may be accompanied by consultation or followed up with information, this waiver is subject to prior approval, requiring a two-thirds majority vote where the majority constitutes more than half of all contracting parties.

⁴² Another important exception in subsequent years of the GATT is Article XXXV, added in 1955, which allowed the non-application of the Agreement among parties that had not entered into tariff negotiations or by a contracting party against another at the time of the latter’s accession.

time.”⁴³ It was under the aegis of GATT’s Article XXIV that the European Coal and Steel Community was subsequently formed, sanctioned by both the GATT and the United States and beginning the sequence of treaties that would lead to the formation of the European Community.⁴⁴ As important is the provision permitting import restrictions in agriculture that could be claimed under Article XI, paragraph 2(c), which allowed “import restrictions on any agricultural or fisheries product, imported in any form, necessary to the enforcement of governmental measures which operate....” The only instance in the General Agreement in which agriculture is specifically mentioned (Curzon 1965, 167), this provision was another safeguard measure negotiated by the United States team, which needed to reconcile GATT’s prohibition on quantitative restrictions (Article XI, paragraph 1) with the production limits and import quotas implemented under the Agricultural Adjustment Act.⁴⁵ Such a provision set the precedent for excluding agriculture from trade liberalization agreements and led others, especially European countries through their Common Agricultural Policy, to raise their own barriers (Goldstein 1993).

⁴³ Chase (2006) argues that Article XXIV and its controversial provisions exempting free trade areas were inserted to accommodate a secret trade treaty between the U.S. and Canada. The trade treaty, it was hoped, would bolster North American cooperation and provide the impetus for a Western European customs union, thus strengthening the economic foundations of the Western alliance.

⁴⁴ *General Agreement on Tariffs and Trade* (1947), Article XXIV, 2(b). Finlayson and Zacher (1981) point to regional agreements formed over the years of the GATT regime under this provision as “the major source of erosion in the nondiscrimination norm” (567).

⁴⁵ “In 1955, the U.S. obtained a waiver to permit the use of import quotas regardless of whether production controls were employed, as required by the Agricultural Adjustment Act. This was a “grave blow to GATT’s prestige” (Dam 1970, 260), and was the first major step to remove agriculture from GATT rules.

Finally, the General Agreement embraced its own impermanence and lack of structure over the permanent and formal International Trade Organization (ITO). The schedules of concessions, declared as an “integral part” of Part I of the Agreement containing the unconditional MFN clause, were, as of 1948, to be in effect for only three years until January 1, 1951, when concessions may be subject to modification or removal.⁴⁶ The original agreement contained no specific provisions for additional rounds of negotiations, and the term “contracting parties” was purposefully used to imply that there were no such commitments for the future (Zeiler 1999, 122). Implicit also in this aspect of the General Agreement was the expectation that the ITO Charter would shortly subsume the General Agreement upon the Charter’s ratification by member countries.⁴⁷

As the fate of the ITO was sealed when its Charter was withdrawn from ratification proceedings in the United States, effectively making the organization unviable for the rest of the signatories, the GATT was able to take its place as the trade-governing mechanism because the first round had been concluded, with the Protocol of Provisional Application of the General Agreement on Tariffs and Trade entering into

⁴⁶ Article II, paragraph 7. In subsequent versions of the General Agreement, the phrase was changed to “On the first day of each three-year period” (GATT 1969).

⁴⁷ Article XXVI. The Geneva agreement was to enter into full force 30 days after signatory governments whose countries’ trade accounted for 85 percent of the total external trade of all signatories had ratified the Agreement and deposited their instruments of acceptance with the Secretary General of the United Nations.

force in early 1948.⁴⁸ As the trade protocol to be attached to its intended parent organization, the ITO, the GATT was virtually devoid of formal institutional features. As Hudec (1975) points out, the GATT “...was a temporary side affair meant to serve the particular interests of the major commercial powers who wanted a prompt reduction of tariffs among themselves” (30). Furthermore, given its temporary and supplementary status, its legal standing was unclear and it contained no provisions for a budget or a full-fledged secretariat. “In short, the GATT was permeated by an atmosphere of impermanence” (Gardner 1956[1980], 380), yet in a paradoxical fashion, this dimension of flexibility secured its installation as the trade-governing mechanism of the post-World War II period.

Power and the Design of the General Agreement

Power warrants a place in the study of institutional design as a theoretically and empirically important determining factor, exerting not only a main effect on its own but also significant interaction effects. The formation of the GATT illustrates how the institutional preferences of the focal actor determine the particular institutional arrangements that result, or why the General Agreement looks the way it does. The distinct leadership of the United States exerted a defining influence on the General

⁴⁸ The Protocol of Provisional Application was signed before the GATT was ratified by the signatories’ respective governments. It allowed signatories to the protocol to apply provisionally beginning January 1, 1948 Parts I and III of the General Agreement and, “to the fullest extent not inconsistent with existing legislation,” Part II as well. It was signed before the end of 1947 by nine countries, including Australia, Belgium, Canada, Cuba, France, Luxembourg, the Netherlands, the United Kingdom, and the United States, which accounted for about 80 percent of world trade. Czechoslovakia was the tenth country to the Protocol on Provisional Application on March 21, 1948 and put the Geneva agreement into effect provisionally on April 21, 1948, at which time U.S. concessions negotiated with that country also became effective. (USTC 1948, Part I, 7).

Agreement's institutional identity as a multilateral institution founded on the principle of nondiscrimination. In institutional design, it led to the centralization of the General Agreement's main task of bargaining. The United States determined in great part the rules of bargaining in the GATT: simultaneous negotiations of bilateral accords among principal suppliers on a product-by-product basis. The most centralizing aspect of GATT's bargaining protocol is its principal supplier rule, in which a country (a contracting party) would offer tariff concessions to the principal source of imports of a good and in turn request concessions on its own main exports to the partner country. This limited negotiations to the major trading nations, including the "democratic industrial powers" (Ikenberry 2004) critical to the reconstruction of Europe and the containment of Communism. The bargaining protocol as a whole also closely resembled the practice followed in the United States in negotiating trade agreements under the Reciprocal Trade Agreements Act, to the extent that the GATT was widely labeled the "the Trade Agreements Program writ large" (Diebold 1988, 11).

The effect of power on institutional design is also demonstrated in combination with other independent variables. In Geneva, the U.S. goal of dismantling preferential trading arrangements increased the severity of the distributional conflict with Great Britain, which sought to hold onto its system of Imperial Preferences. Indeed, the successful conclusion of this first round of trade negotiations hinged on the resolution of the Anglo-American distributional conflict. The Geneva round effectively ended only after the conclusion of the Anglo-American agreement, whose negotiations over Imperial Preferences had dragged on longer than others, and whose conflict over the U.S. wool

tariff had threatened to scuttle the GATT talks completely and held up additional agreements with the British dominions and colonies (Zeiler 1999, 94-103, 121).

The GATT negotiations were also shaped by U.S. institutional preferences originating in uncertainty regarding long-term domestic support for trade liberalization. Officials in the United States and Great Britain as well as other allies confronted a high level of “uncertainty about the state of the world,” the lack of knowledge about the consequences of specific institutional arrangements. In particular, GATT’s institutional design was shaped by conditions of domestic uncertainty, in which it was difficult to predict with much confidence the level of support for trade multilateralism in the United States. Legislators were mindful of this uncertainty in their deliberations on the renewal of the Trade Agreements Act, and in Geneva this led to a higher level of uncertainty on the part of negotiating parties. Officials of other countries viewed with skepticism the viability of a long-term U.S. commitment to trade multilateralism and sought institutional provisions to counter this uncertainty.

The problems of distribution and uncertainty led to several provisions for flexibility in GATT’s institutional design. It sanctioned the continuation of existing preferences. It also provided an escape clause and a host of exceptions to the unconditional MFN provision, as a means to address the uncertainty issues facing the negotiating teams. Finally, the three-year time delimitation in the tariff schedules rendered GATT as a temporary institution. The rejection of the ITO in favor of the temporary General Agreement further symbolized the importance of flexibility in this institution borne of uncertainty.

Conclusion

The findings of this analysis have two important implications for the study of international institutions and in particular of institutional development. First, how power affects institutional *design* is critically important to how it affects determines institutional *development*. In spite of the fact that there was a three-year limit on the GATT's tariff schedule, subsequent rounds of the GATT negotiations demonstrated a remarkable stability and persistence in the rules of bargaining established in Geneva. Negotiations continued to take place bilaterally among principal suppliers even with amendments to the Agreement allowing for multilateral procedures, due largely to continued U.S. adherence to bilateral accords.⁴⁹ The item-by-item approach to tariff bargaining persisted even with significant changes in U.S. trade legislation allowing for a sectoral approach.⁵⁰ The tariff schedule itself was installed as an integral part of the Agreement and made difficult to change in subsequent rounds through automatic renewals (Curzon 1965,115). Thus the rules set in Geneva continued to privilege the large economies and major powers, and negotiations under the General Agreement largely took place among the United States, Canada, Great Britain, France, and later Germany after its accession.

The Geneva Agreement, the first bargain among its participants, demonstrates the role of "early outcomes" that generate positive feedback processes in institutional development (Pierson 2004). The design of the General Agreement established rules for

⁴⁹ *General Agreement on Tariffs and Trade*, Article XXVIII (bis), 2(a) (GATT 1969). Effective September 24, 1952.

⁵⁰ The U.S. Trade Expansion Act of 1962 allowed the use of a sectoral approach, or tariff reductions in whole sectors rather than on an item-by-item basis. GATT negotiations nevertheless continued to be dominated by the item-by-item approach in the Kennedy (Dam 1970, 67; Curzon and Curzon 1976, 185-186) and Uruguay Rounds (Hoekman and Kostecki 2001,130).

bargaining that produced “deep equilibria” in the institution, in which “factors contributing to the resilience of a particular institution or set of institutions are so considerable that once arrangements settle on that point they are highly likely to endure for an extended period of time” (Pierson 2004, 157-160). The General Agreement’s key institutional features embedded power relations through the centralization of bargaining *power* among the principal suppliers, a significant source of institutional resilience. Also important are the host of flexibility arrangements, which continued to sanction departures from the non-discrimination and produced a wide network of preferential trade arrangements.⁵¹ The set of exceptions that provided for flexibility in the GATT became permanent installations of the global trading order, peppering the multilateral trading system with a host of discriminatory arrangements. Though these were unanticipated consequences of these provisions, especially in the case of free trade and customs areas (Pomfret 1988, 67), they nevertheless provided a significant source of institutional resilience in GATT’s toleration of preferential trading arrangements that go against the non-discrimination principle.

In addition, the analysis calls for considering a more dynamic role for power in understanding institutional development. Studying power in the institutional design stage provides a momentary and static view of its importance, on its own or relative to other explanatory factors. However, the fact that “institutional design creates and reproduces

⁵¹ The United States would later endorse the Schuman Plan under the GATT’s aegis, which eventually led to the European Coal and Steel Community, in spite of its discriminatory qualities, as the prospect of Franco-German cooperation in these industries had major security dividends, notably eventual French acceptance of West German rearmament and membership in NATO. The United States also supported West European commercial integration through the formation of the European Economic Community (EEC) in 1957 for the same reasons, tolerating its discriminatory trade practices against the United States and other countries.

political power,” as Wendt points out (2001, 275) suggests a far more dynamic role, and that the functional form of this relationship may look very different in stages of institutional development. As much as power determines the initial design of institutions, its effect may be more appropriately modeled as endogenous in subsequent stages, shaping the institution and in turn shaped by it over time. This is especially the case when the General Agreement is viewed as part of the “constitutional order” that the U.S. created (Ikenberry 2004), which by definition imparts a dynamic relationship between shifting power relations and institutions, as it commits the victor to institutional arrangements with expectations of future gains even when the lesser states grow stronger.

The General Agreement on Tariffs and Trade negotiated in Geneva installed a set of rules to govern trade after the Second World War. Its design reflects the resolution of cooperation problems of distribution and uncertainty among the participants, which were shaped by great power politics centered on the United States and its main ally Great Britain. In analyzing the role of power on the GATT’s institutional design, this analysis has sought a better understanding of how power fits into a theoretically-driven causal explanation for the variability of institutions. Within the framework of the rational design project in particular, the results shows that power is a significant and omitted explanatory factor. The power politics affecting institutional design provides key explanations and has important implications for understanding institutional development.

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