ESSAYS IN INTERNATIONAL FINANCE

No. 21, October 1954

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DEPARTMENT OF ECONOMICS AND SOCIOLOGY

PRINCETON UNIVERSITY

Princeton, New Jersey

This is the twenty-first number in the series ESSAYS IN INTERNATIONAL FINANCE *published from time to time by the International Finance Section of the Department of Economics and Sociology in Princeton University.*

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In the language of one of its member countries, "GATT" is a naughty word. In other languages, too, the word is frequently pronounced with certain accents of distaste. But for the most part the word and the institution it represents, for all their significance to world trade, are not well known either here or abroad. In the next few months, however, a lively interest will develop in the GATT and its works. For during these months, after six years of experience, the General Agreement is to be renegotiated by its thirty-four signatories. The instrument which emerges will then be debated in most of the parliaments of the free world, with results that are not easy to predict.

In the United States, the Congressional debate is likely to take place late next spring. The American position on the GATT is so critical that it will determine whether or not the Agreement will remain in effect for any nations. Implicit in this American decision is a larger choice; will the United States continue to pursue the general pattern of trade relations with the rest of the world which has evolved as the "reciprocal trade agreements" program, or will it alter that pattern drastically?

What we shall try to do in this essay is to set the stage for the negotiations and debates that are shortly to begin: to place the GATT in its proper relation to this nation's foreign trade policy, to weigh the GATT's achievements, and to assess its future.

The GATT is a trade agreement—the General Agreement on Tariffs and Trade—brought into being in 1948. Every major trading nation on our side of the Iron Curtain is associated with it. Even Japan has been brought into a working relation with other signatories to the Agreement, though in a form which is something less than full adherence. As far as the United States is concerned, the GATT is its principal international trade contract. Insofar as international agreements constrict this nation's behavior, these pacts are for the most part embodied in the rules of the General Agreement. As we shall presently see, this is not the case with respect to many other nations of the free world, most of whom are bound in their conduct to one another by various other international contracts as well. Another way of orienting the GATT's position in world trade is to observe that it has been more important as an

instrument governing trade relations between the United States and the rest of the world than as an instrument governing the relations of the rest of the world *inter se.*

I. THE GATT'S ORIGINS

It is difficult to evaluate the GATT without dwelling for a moment on its early origins; and impossible to explore its early origins without going back to Mr. Smoot and Mr. Hawley. If there was a single event which set the stage for the American policy which is embodied in the General Agreement, it was the enactment in 1930 of the legislative monstrosity known as the Smoot-Hawley Tariff. This statute has attracted superlative abuse not alone because it set American tariffs so high, but also because the rates were set with such a single-minded concern for the wishes of specific producer groups as to shock the sense of fitness and propriety of many of those who were exposed to the process. While there were some underlying patterns in the resulting rates, they were not patterns which the authors of the act were clearly seeking. The rates in the act were, in effect, largely an expression of the relative power of lobby groups.

The late Senator Vandenberg's oft-quoted words on the process by which the Smoot-Hawley act came into being expressed the sentiment of many other members of the Congress: "Tariff rate-making in Congress," he said, "is an atrocity. It lacks any element of economic science or validity." Congressmen who participated in the ten-month process of negotiation and drafting which preceded the enactment of the law still look back upon it as something of a legislative nightmare. They were simply overwhelmed in the process. Not only were they besieged by constituents they could not deny, but they were asked to pass judgment on the wisdom of thousands of different rates defined in the esoteric jargon of hundreds of different trades.

The Smoot-Hawley Tariff has often been charged with more than its proper share of the economic ills that followed it. Certainly, it was not a prime cause of the subsequent economic collapse. But the ten months of personal unhappiness which most Congressmen had experienced, followed by the four years of national misery thereafter, left a deep scar. For many years after 1930, there was a large and influential body in the Congress which was determined that the tariff-making power should not revert to the legislature. Accordingly, when in 1934 the executive proposed to the Congress that our tariff should be lowered gradually in implementation of reciprocal trade agreements, the Congress was content to delegate the necessary powers to the executive branch,

after promulgating certain limits and objectives which would govern the exercise of the delegated powers.

From 1934 until the war's outbreak in 1939, the United States entered into bilateral trade agreements with a score of countries. In each agreement the United States undertook to lower certain of its tariffs in which the other country had a particular interest in return for similar reductions on the part of the other country. During this period, however, the American negotiators found, more and more, that trade barriers other than tariffs had to be dealt with as well; there was little point, they discovered, in securing the reduction of a tariff on the part of another nation only to be confronted by some other deterrent to imports such as a quota restriction or a discriminatory internal tax. In time, therefore, the scope and complexity of the bilateral agreements grew, covering more and more of the devices which constituted impediments to international trade.

Yet these bilateral agreements quickly reached the limits of their efficacy. There were many trade problems, our negotiators discovered, which could not be dealt with successfully in such contracts. For example, some nations felt it necessary to maintain extensive quota systems simply as a counter threat against others using the same system. In situations of this sort, the lure of American tariff reductions was not enough in the eyes of any *one* of the trade-beleaguered nations to justify the risks which would accompany the elimination of quota restrictions. While nations could be persuaded to mitigate their quota systems on a few carefully chosen products, no nation would agree to a major reduction in the scope of its system unless its principal trading partners also were bound to undertake similar extensive relaxations. Yet no bilateral agreement with the United States could serve as a vehicle to achieve such a result.

If other nations would not agree to make any major reforms in their trading practices as part of a bilateral agreement, neither would the United States. For example, many nations felt that the trade concession they most wanted from the United States was an overhauling of our objectionable system of customs valuation. But even if the President had the authority to do so, the United States could not have been expected to agree to any such general reform as part of a bilateral trade agreement with any nation since no one nation's trade with this country was sufficiently important to justify a step of such general application.

The bilateral agreement proved also to have its limitations as a means of reducing tariffs. Twelve years before the institution of the trade agreements program, the United States Tariff Act of 1922 had incorporated the recommendation of a special bipartisan Tariff Commission that, in general, the United States should apply a single nondiscrimina-

tory tariff rate on any specified import, whatever its country of origin. This policy of unconditional most-favored-nation treatment, because of the solid justification which lay behind it, was carried over into the trade agreements program. It meant, in effect, that if we reduced our tariff on, for example, bicycles, in an agreement with Great Britain, the benefit of the reduction extended to similar bicycles from other sources.

Committed to such a policy, our bilateral negotiators were constantly faced with the problem of how to reserve their bargaining power for later negotiations. The glove tariff, for instance, affects both Japan and France because each is interested in exporting gloves to the United States. In negotiations with France, therefore, it would behoove our negotiators so to define the tariff reduction extended to France as to exclude the type of glove in which Japan might have an interest. Over a period of years, this type of consideration led to the introduction of hundreds of distinctions in our tariff structure which had not been made in the original Smoot-Hawley Tariff Act. Therefore, while the bilateral agreements were instrumental in bringing down the American tariff structure, they did so at the cost of confounding confusion.*

But the principal drawback of the bilateral trade agreement program, as distinguished from a multilateral arrangement such as the GATT, was more subtle than either of these difficulties. It was the problem which infects every bilateral agreement among sovereign nations: the difficulty of dealing with a breach of the agreement. Faced with some grievance which might violate a bilateral trade agreement, a signatory nation's first problem was to determine what the agreement really meant. This was not always easy since it was true of international trade pacts—as it was of other forms of international agreements—that the political compulsion to obtain signatures upon a piece of paper oftentimes was more important than the economic compulsion that the paper should contain a basis of real understanding. Accordingly, clarity or sharpness of concept often had to be abandoned to mask the absence of a meeting of the minds. At times, therefore, there was room for genuine uncertainty as to the meaning of some provision, even when the provision was central to the agreement. And when the undertaking was bilateral, a dispute over the meaning of a provision would ordinarily lead to stalemate.

As difficult as determining the meaning of an ambiguous provision of a bilateral trade agreement in event of a suspected breach was the

* See, e.g., Commission on Foreign Economic Policy (Randall Commission), *Staff Papers*, Washington, February 1954, p. 334. This document and the Commission's *Report to the President and the Congress*, Washington, January 1954, present the most recent governmental review of United States foreign trade policy.

difficulty of determining the relevant facts. Adequate information was not always in the possession of the would-be complainant. Yet the other signatory to the agreement, if confronted with a request for additional facts, could procrastinate, misunderstand, or evade until all interest in the problem had dissipated.

But even when the meaning of the agreement and the facts were clear, nations were commonly loathe to raise a question of breach of contract in diplomatic channels. For any two countries with a significant volume of trade between them also tended to have a good many other irons in the fire; at any given moment, a variety of political, military, and financial issues were likely to be at one stage or another of negotiation between them. Before any official of either nation was authorized by his own government to raise a trade issue in the same diplomatic channels that were carrying the burdens of these other negotiations, he had to hurdle the succession of barriers that his own confreres would inevitably seek to throw in his path.

Finally, even when a nation was prepared to raise the question of breach of contract in diplomatic channels and even when the facts of the breach were crystal-clear, a bilateral trade agreement might prove of little utility. For any nation, confronted with a charge of violating a bilateral agreement, could usually find grounds for asserting that the other party came to the argument with soiled hands. By common consent, therefore, nations often tended to disregard infractions of the agreement to avoid mutual embarrassment. Something lower than the least common denominator of conduct of the two nations usually prevailed.

Considerations of this sort were in the minds of British and American representatives when, in 1943, they began to develop in earnest their ideas for international trade in an uncertain post-war world. In their planning, joined in the later stages by representatives of many other countries, they turned away from bilateral agreements to agreements of a multilateral nature. Finally, in 1948, an elaborate blueprint emerged.

An International Trade Organization was to be created, third leg of a tripod which was to support the international economic relations of the principal nations of the world; the other two institutions, the International Monetary Fund and the International Bank for Reconstruction and Development, had by this time come into being. The ITO was to deal not alone with trade policy as the term was commonly understood—that is, with the problems of tariffs, quotas, customs practices and so forth—but it was also to provide an international investment code, to deal with the control of harmful cartels in international trade, and to prescribe standards and procedures for the negotiation of international commodity agreements.

The character of the ITO was determined not only by the lessons of pre-war experience but also by the prevailing political spirit of the period in which it was developed. During this period—1943 to 1948—the forces of economic protectionism and of regionalism were at low ebb among the important trading nations of the world. To be sure, nations were engrossed in trying to make their national economies work and, in their efforts, were commonly employing national measures of the "beggar-my-neighbor" sort. To be sure, political groupings such as the British Commonwealth and the French Union maintained their identity and their special economic ties during the period. It is also true that some new regional entities came into being in those years, such as the Emergency Economic Commission for Europe. Yet it is fair to say that, during this period, these nationalistic and regional forces—centrifugal and divisive forces in the formation of any system of world trade and payments—were weaker on the whole than they had been during the preceding three decades.

There was a brief period in 1948 when the American Congress might have been willing to agree to the creation of the ITO. But more pressing problems intervened. The European Recovery Program, for example, was demanding the first attention of the Administration and the Congress. A year passed, then two. During this period, there was a lopsided battle to present the new Organization to a barely-interested American public. On the one side were arrayed many groups which had a special concern about one or another of the hundred-odd Articles contained in the Organization's Charter. Some of these groups had genuine ideological or intellectual difficulties with one provision or another of the Charter, while others were simply fearful that American adherence to the ITO would mean the continuation of the policy of reducing tariffs. On the other side, attempting to offset these groups, were the formal, inhibited presentations of an Administration trying vainly to explain a strange, complex, and highly technical agreement. Whatever the merits of the dispute, the outcome was almost inevitable. In December 1950, the Administration withdrew its support of the Charter and the rest of the world followed suit.*

Meanwhile, almost unnoticed, the stop-gap, temporary, and "provisional" General Agreement on Tariffs and Trade had come into being. This was not an organization in the sense of the ITO, but was rather an agreement administered through periodic meetings of the signatory states. Its purpose was simply to carry out a part of the substance of the Charter of the ITO—the part which dealt with trade

* See William Diebold, Jr., *The End of the ITO*, published in this essay series in October 1952, for an interpretation of why the United States failed to ratify the Charter.

policy in its narrower and more familiar sense—during the year or two in which the ITO charter was to go through the slow process of ratification. Some nations had adhered to the Agreement through consent of their executive; others through ratification by their legislature. As far as the United States was concerned, the GATT was an executive agreement, with the Administration contending that its participation was based upon the oft-renewed Presidential authority in the Trade Agreements Act and upon the President's more general powers to conduct foreign affairs.

Though feeble at birth, the GATT functioned vigorously. Meeting for the first time in Geneva in 1948, the nineteen countries then signatory to the Agreement held an unprecedented multilateral tariff negotiation. In effect, each nation negotiated simultaneously with each of its trading partners on the tariffs of most importance to their trade; the results of these separate negotiations were simultaneously concluded and incorporated into a single document. Thereafter, the GATT signatories held two additional tariff-negotiating sessions: one at Annecy, France in 1949, and one at Torquay, England in 1950-1951.

In addition to these negotiations, and with much less publicity, the GATT's contracting parties were meeting in regular session at least once a year to deal with the many other subjects, apart from tariff negotiations, which make up the bulk of the Agreement. In these sessions they elaborated the meaning of their various rules, sponsored supplementary agreements for the reduction of trade barriers, and heard complaints by one contracting party against another. These eight regular sessions, completed between 1948 and 1953, created a pattern of operations unique in international trade history.

II. THE GATT'S PERFORMANCE

It is not easy to appraise the GATT's work over the past six years. There have been notable successes and notable failures. Some of its failures can be traced back to the inadequacy of the Agreement's provisions; some to the unwillingness or inability of nations to carry out provisions which, in themselves, seemed unexceptionable.

Tariff Reductions

As far as tariff negotiations are concerned, the General Agreement does not contain any provisions which compel such negotiations to be held. To be sure, the GATT does provide—in accordance with American policy—that the tariffs of each member country are generally to be applied on a nondiscriminatory basis to goods from all other signatory countries. And it also provides that *if* tariff reductions take place,

they are to be made on a basis which will tend to reduce, and eventually to eliminate, any preferential tariff systems that a nation might have maintained when it joined the GATT. But more important than these rules is the fact that the General Agreement provides the framework, the sponsoring body, and the mechanism for developing the detailed ground rules for such negotiations. The Geneva tariff session of 1948, the Annecy session of 1949, and the Torquay session of 1950-1951 probably would not have taken place in the absence of such a framework.

To be sure, if the GATT had not existed, the United States might have continued to negotiate tariff reductions on the bilateral pattern which it had followed before the war. But it is doubtful if negotiations of a bilateral nature would have resulted in the added reduction in American tariff levels which occurred between 1948 and 1953.* This added reduction, which perforce bit into more sensitive segments of the American tariff structure than the earlier reductions had done, could only have been achieved in the exceptionally favorable circumstances which a multilateral negotiation provides for such reductions. Some of the more important reductions, such as that in the wool tariff, required courageous political decisions, taken in the interest of the nation as a whole and in the face of strong antagonistic domestic interests. This kind of decision probably could not have been made in connection with a bilateral negotiation with any single country; it became a possibility only when it developed as a pivotal issue in our negotiations with the whole of the British Commonwealth.

By the same token, it is doubtful if other nations would have gone so far in the reduction of their own tariffs in the GATT's absence. While some of them might have been persuaded through bilateral agreements to reduce rates on products in which the United States had a primary interest, there probably would have been less tariff reduction by other nations in favor of one another if the General Agreement had not provided the negotiating framework. From the American point of view—concerned as we have been during the past six years with the revival of trade throughout the free world as a means of enhancing its strength—this must be counted as a major plus mark for the GATT.

Quantitative Import Restrictions

The Agreement's effect upon the quantitative import restrictions, or import quota systems, maintained by most of the participating nations has not been nearly so evident. In principle, the GATT goes far. It sets out a general prohibition on quantitative restrictions on imports,

* For a recent official attempt to measure the extent to which American tariffs have been reduced, see U.S. Tariff Commission, *Effects of Trade Agreement Concessions on U.S. Tariff Levels Based on Imports in 1952*, Washington, September 1953.

whether discriminatory or not. Then, in reluctant acquiescence to the multitude of demands made by the various signatories, it carves out a variety of major exceptions to this general rule.

One of the principal exceptions, made largely at American urging, has to do with domestic agricultural income-support programs. The general rule here is that if nations decide to curtail their domestic production or marketing of an agricultural product to any degree in order to support farm income, they may curtail imports in equal degree. The GATT does not, however, give license to any nation to curtail such imports simply because that nation is pegging the price of an agricultural commodity above world prices for the commodity; the right to restrict imports exists only where domestic production or marketing also is being restricted. Accordingly, many of our American price-support programs would not qualify as the type which justifies import restrictions under the Agreement.

The rule against quantitative restrictions also contains a major exception in favor of nations with so-called balance-of-payment difficulties. The scope of this broad exception reflects the fact that, at the time of the GATT's negotiation in 1948, virtually every trading nation in the world except the United States was experiencing a shortage of foreign exchange. Confronted with this seemingly chronic difficulty, most countries had taken to rationing the foreign purchases of their citizens, using import licenses to enforce their rationing schemes.

The GATT's provisions dealing with these balance-of-payment import restrictions were the outcome of a desperate hauling and pulling among the few haves and the many have-nots of the period. Inevitably, the provisions were lengthy, bewildering, and complex. But when all the verbiage is parsed, the provisions come to this: while quantitative restrictions are prohibited in general, nations with very low foreign exchange reserves may do much as they like in the rationing of their scarce exchange. The only obligation of such restricting nations is to relax import restrictions as their position improves, to consult about the measures on request, and to avoid commercial damage where they can.

The GATT might have embodied two other general lines of policy with respect to balance-of-payment import restrictions. First, it might have prohibited such restrictions out of hand. A respectable body of opinion—mostly American opinion—would argue that no nation *need* have balance-of-payment difficulties. Threatened with a drain on their exchange reserves, nations can avoid import restrictions by pursuing a firm deflationary policy within their domestic economies. This may require heavy taxation and high interest rates; it may create unemployment; but in theory it can be done. This being so, it is maintained,