
The Unconditional Most-Favored-Nation Clause and the Maintenance of the Liberal Trade Regime in the Postwar 1870s

Bryan Coutain

Abstract International institutions within the past thirty years become the subject of renewed interest as scholars vigorously dispute their utility. Neorealists draw on the post–World War II era to advance sweeping general claims of institutional inefficacy. This study, by contrast, deploys the same hard-test method Grieco applied to the 1970s Tokyo Round negotiations to the crisis-rife 1870s to construct a unique methodological objective: a rigorous hard-test of nineteenth-century institutional autonomy. Three principal findings emerged. First, the maintenance of a liberal world economy in the turbulent 1870s is explained by an unlikely commercial instrument and the unprecedented regime design of an unexplored international institution—respectively the unconditional most-favored-nation (MFN) clause and the informal conventional tariff system (CTS) regime it underpinned—not British hegemony. Second, the international trade regime was not a public good unilaterally provisioned by “hegemonic” Britain via the 1846 Corn Laws Repeal. The regime was instead a private good that was collectively provisioned by all its constituent member states via the unprecedented interstate practices institutionalized in the 1860 Cobden-Chevalier Treaty and then autonomously maintained by a negarchical and self-enforcing sanctioning mechanism. Finally, the informal CTS regime’s enforcement mechanism autonomously altered the interests and behaviors of states in directions incongruent with executive preferences solely through the brute force of rational calculations imposed by decentralized international institutional constraints. Both the French and British executives in the 1870s believed the regime was normatively inappropriate and unsuccessfully attempted to exit amid eight system-threatening crises. Nonetheless, the MFN-based regime’s self-enforcing sanctioning mechanism autonomously induced compliance: conceptualized as unitary states’ behavior deviating from executives’

This study is dedicated to my former teachers: Professors Thomas Callaghy, Friedrich Kratochwil, and Robert Vitalis. I owe an eternal intellectual debt to Tom, who instilled in me a profound appreciation for the state; Fritz, who single-handedly taught me the importance of rules, norms, and interstate practices; and Bob, who inspired me to take history very seriously. I want to thank Edward Mansfield for invaluable advice on revising this manuscript, and two anonymous reviewers and the editors of *IO* for helpful comments and editorial suggestions. The University of Pennsylvania’s Christopher H. Browne Center for International Politics, Fontaine Society, and Middle East Center provided valuable institutional support. I am also indebted to Jennifer Amyx, Tom Callaghy, Fritz Kratochwil, Ed Mansfield, Ambassador Eugene Pursoo, and Bob Vitalis for long-standing support.

International Organization 63, Winter 2009, pp. 139–75
© 2009 by The IO Foundation.

doi:10.1017/S0020818309090055

first-order preference. The extraordinarily turbulent 1870s therefore provide an unexplored historical vantage point to make strong institutionalist claims in an era, issue area, and under conditions that they are least likely to be validated.

In the 1980s and 1990s international institutions became the subjects of renewed scholarly interest but their utility was disputed. Neorealists claimed institutions “have no independent effect on state behavior” because they easily rupture when power shifts and interests change.¹ Neoliberal institutionalists, by contrast, sought to demonstrate that international institutions mattered, but they initially focused more on regime formation than on their impact.² Building on the earlier neoliberal institutionalist approach, analysts later moved to correct this deficiency by highlighting how differences in specific institutional features of negotiated environmental, security, human rights, and, to a lesser extent, trade agreements explain variations in state behavior.³ Rational choice institutionalists within the Rational Design Project (RDP) had rediscovered the importance of *institutional form* that historical institutionalists long emphasized, but under a new name. What neoliberals now call variations in “regime design,” historical institutionalists in the pre-1945 period mapped in a large body of comparative studies on international institutional forms. Although their insights were relatively unsystematic, institutionalists nonetheless highlighted the impact of variations in international institutions on uncertainty reduction, executive flexibility, and mobilization of social forces.⁴ Many of the insights, however, were lost mainly because early institutionalists focused more on policy formulation than theoretical construction, and their successors tended to abandon the study of extant international trade institutions.⁵

The 1970s oil shock, and the different national responses the single stimulus elicited from institutionally dissimilar governments arrayed along the strong-weak state continuum, led post-World War II historical institutionalists to shift their pre-war focus away from international institutions to domestic structures.⁶ Contemporary historical institutionalists studying trade policy therefore ignore pre-World War I international institutions and their role in the evolution of the world economy and, with few exceptions, the early institutionalist literature.⁷ Instead, they

1. See Mearsheimer 1995, 34; Waltz 1979; and Grieco 1993.

2. See Keohane 1984; Axelrod and Keohane 1985; and Oye 1992; Koremenos, Lipson, and Snidal 2001; Martin and Simmons 1998; and Coutain 2005.

3. See Mitchell 1994; Mitchell and Keilbach 2001; Saksena 2006; Koremenos, Lipson, and Snidal 2001; Benvenisti and Hirsch 2004; Rosendorff and Milner 2001; Pahre 2001; and Barton et al. 2006.

4. See Thompson 1888; Ford 1902; Stone 1908; Gregory 1921; and Tasca 1938.

5. See Stone 1905, 383. Attention to international institutions is indirect; see Haggard 1988; and Goldstein 1996.

6. Katzenstein, 1978.

7. See McGillivray 2001; and Coutain 2005. Exceptions are Pauly 1996; and Lavelle 2007.

focus on variations in domestic institutions, or on how variations within and/or across countries lead to different outcomes even when states face the same international stimulus.⁸ In response to all these approaches, this study deploys historical institutionalism to prewar Western European commercial relations, and constructs the first hard-test of nineteenth-century international institutional autonomy.

My argument might at first seem counterintuitive. It was the unprecedented institutional form/design of the French-initiated and led *conventional tariff system* (CTS) regime, not British hegemony, that through institutionalized interstate practices autonomously maintained the world trading system amid multiple shocks in the 1870s. The CTS regime, inaugurated by France in the 1860 Cobden-Chevalier Treaty, shifted tariff-making away from the porous legislature into insulated, bilaterally negotiated unconditional most-favored-nation (MFN) international tariff-treaties/conventions.⁹ Tariff-making in treaties was then coupled with *conventionalization*: the reduction and binding of customs duties for ten to twelve years with no possibility of change unless all parties mutually agreed.¹⁰ The informal regime's simple design privatized trade, solved long-standing collective action problems, induced interstate cooperation without coercion, established international constraints on autonomous tariff-making, reduced uncertainty about trading-partners' future behavior, restrained domestic protectionists, and provided a powerful decentralized enforcement mechanism against defection.

However, the only commercial instrument more neglected by successive generations of scholars than the MFN clause¹¹ is the informal CTS regime it underpinned. The institution received cursory mentions in prewar scholarship but no systematic explication. I pull together the old institutionalist literature to unpack the CTS regime's design features that underpinned prewar system stability without hegemonic leadership and formal organization.

The first section in this article begins by examining the 1870s puzzle and the methodology employed to investigate it. The second section theoretically describes the unconditional MFN clause and explains how its institutionalization within the neglected CTS regime both created and maintained the prewar multilateral trading order. The third section proceeds to empirically unpack how neglected *derived rights* created a powerful yet decentralized multilateral enforcement mechanism whose *negarchical structure* autonomously blocked France's 1872 attempt to exit the regime and maintained an extraordinarily high level of international cooperation. The final section concludes with the implications raised by the CTS regime.

8. See Haggard 1988; Destler 1992; Katzenstein 1978; and Ikenberry 1988.

9. See Stone 1907, 52; Laughlin and Willis 1903, 23; and Whale 1967, 204.

10. See Stone 1908, 109; Commercial Treaties 1870, 19; Meredith 1904, 20; Ashley 1926, 111; and Haight 1941, 46.

11. See Herod 1901; Hornbeck 1910, 6; Snyder 1948, 4; and Cline 1982, 18.

The 1870s Puzzle

A puzzling anomaly motivated this inquiry: hegemonic leadership and stabilizing bipolarity were notably absent in the period, but there was the presence of commercial order amid severe politico-economic shocks. The 1870s was a turbulent decade in the world economy. A number of destabilizing developments threatened to destroy the liberal trade regime inaugurated by the ten-year 1860 Cobden-Chevalier Treaty. First, Charles Otto von Bismarck's bid for German unification through force—culminating in the 1864 Prussian-Danish, 1866 Prussian-Austrian, and 1870–71 Franco-Prussian wars—tore to pieces the 1815 Congress of Vienna treaties, changed the map of Europe, redistributed power on the continent, and created the Third French Republic and the Second German Empire “by one and the same stroke of destiny.”¹² The military and political primacy France had enjoyed in Europe “for two centuries and a half” shifted to Germany in 1870.¹³ Bueno De Mesquita traces the origin of German hegemony to the seven weeks 1866 Prussian-Austrian War.¹⁴ But the new power relations were codified in the 1871 peace settlement, the Treaty of Frankfurt, which according to Giesberg “was a monument to the great fact of the day in European diplomacy: the emergence of a united Germany as the leading power of western and central Europe.”¹⁵

Simultaneously, the initiator of the liberal trade regime, Napoleon III, became on 2 September 1870 a prisoner of Prussia, a capture that led to the immediate collapse of his Second Empire, a personal regime. On the heels of this collapse, the Third Republic was proclaimed on 4 September 1870 with M. Louis Adolphe Thiers as the new president, France's leading protectionist.¹⁶ Thiers “hated Napoleon III and all his works, both political and economic,” and was committed to destroying the regime.¹⁷ Meanwhile, Britain—after experimenting with heretical *positive free trade*, tariff-treaties, from 1860 to 1865—reverted back to *negative free trade*.¹⁸ Kindleberger acknowledges that “there were occasions when Britain was either not involved or stood aside, as in 1873 when Central Europe and the United States shared a long depression.”¹⁹ Further destabilization came along with the U.S. Civil, Prussian-Austrian, and Franco-Prussian wars that “increased the financial exigencies of these States,” made tariff reductions “literally impossible,” and made “irresistible” the nationalistic temptation to undo the liberalization “done

12. See *Quarterly Review* 1864a, 1870a, 295, 1870b, and 1871, 351; and *Edinburgh Review* 1867 and 1891, 549.

13. Gladstone 1870, 288.

14. Bueno De Mesquita 1990.

15. Giesberg 1966, 175. See also Gladstone 1870, 284–85; and Morley 1911, 115.

16. See *Quarterly Review* 1870a, 307, and 1871, 351; Morley 1870, 369–70, Zeldin 1958, 2; and Plessis 1985, 16.

17. Dunham 1930, 295–96.

18. Negative free-traders rejected tariff-treaties as government intervention; see Platt 1968, 143–44.

19. Kindleberger 1986, 290.

only a few years before.”²⁰ The ten-year 1860 treaty was scheduled to expire in 1873 since all its provisions became effective in 1863. Finally, the 1873 Vienna stock market crash triggered the “Great Depression” of 1873–96.²¹ Why then did the liberal trade regime survive until 1914?

The Literature and the Puzzle

Economic historian Kindleberger established leadership theory in his study of the 1930s Great Depression. He argued that the hegemon led by unilaterally lowering tariffs to inspire emulation, provided essential services, and absorbed the costs of system maintenance. A variant of Kindleberger’s insight entered international relations as a more rigid notion called “hegemonic stability.” To some, the idea meant that a coercive power was required to manipulate systemic incentives and disincentives to induce states to cooperate and overcome dilemmas of collective action.²²

How well do leadership and hegemonic stability theories explain the prewar regime and system maintenance? Britain is widely viewed as the system leader in the crucial years of the midnineteenth century. But neither leadership theory nor hegemonic stability theory (HST)²³ explains the trade regime as it evolved by 1870. With the 1846 Repeal of the Corn Laws, Britain simultaneously institutionalized five principles that made active regime creation and maintenance normatively inappropriate: unilateral free trade, laissez-faire, economic noninterference, political nonintervention in Europe and the United States, and the *autonomous tariff principle*.²⁴ The latter held that tariffs were purely a domestic matter to be decided individually by each country’s legislature in accordance with its own interest, and without any external interference whatsoever.²⁵ Britain rejected tariff treaties in the early 1840s as unwise government intervention inconsistent with laissez-faire and institutionalized negative free trade in 1846.²⁶ The trade regime began in 1860 when a feared French invasion forced England to conclude the normatively objectionable Cobden-Chevalier Treaty, but only to improve dangerously strained Anglo-French relations.²⁷ Britain in 1865 again abandoned tariff treaties and failed to maintain the regime in the 1870s.²⁸ The unfalsifiable “second face of hege-

20. Levi 1877, 14.

21. See Rosenberg 1943; and Gourevitch 1977.

22. See Kindleberger 1981, 247, and 1986. Kindleberger 1981 and 1986 criticized the shift away from cosmopolitan leadership to coercion. See also Gilpin 1987; Krasner 1976; and Lake 1988.

23. An anonymous IO reviewer alerted me to the leadership-HST distinction.

24. See Morley 1881, 610; and *Quarterly Review* 1864b. On appropriateness, see Wendt 2001.

25. See *Edinburgh Review* 1843; Morley 1881, 535; and Brown 1959, 116.

26. See *Edinburgh Review* 1843; Morley 1881; Iliasu 1971, 68, 71, 72; Howe 1997, 22; and Nye 2007.

27. See Gladstone 1887, 297; Dunham 1930, 106; and McGilchrist 1865, 218–19; Hobson 1919, 244; and Iliasu 1971, 75.

28. See Platt 1968, 374; Kindleberger 1986, 290; and Krasner 1976, 337.

mony” claim that Britain, by lowering its tariff to influence free trade coalitional alignments abroad, “consciously or unconsciously” exercised “subtle and indirect” hegemony²⁹ cannot explain regime maintenance. In 1873 Prime Minister William Ewart Gladstone argued that Britain, by renewing the expired 1860 treaty “with France, would interfere in the purely internal struggle in that country between protectionists and free traders.”³⁰

Neorealism’s and neoliberalism’s conventional emphasis on leadership cannot explain the commercial order during the 1870s for two reasons: the theories are ahistorical and underestimate institutional autonomy. Neorealists ignore prewar commercial policy and deny institutional autonomy. Neoliberals’ initial objective was to explain regime maintenance in the 1970s, not in the 1870s. The RDP’s narrow definition of institutions unsurprisingly excludes the prewar regime by explicitly omitting “tacit bargains and implicit guidelines.”³¹ Neoliberals also made weak claims on institutional strength and autonomy, arguing that international institutions “sometimes matter,” are “created in response to state interests, and . . . their character is structured by the prevailing distribution of capabilities.”³² Neoliberals within the RDP later conclude that “states rarely allow institutions to become significant autonomous actors”³³ and make one related, but unsupported, conjecture salient to the prewar regime. Uncertainty about the state of the world leads to institutional flexibility, that is, escape clauses in trade.³⁴

Even Wendt argues that the RDP’s “apparent empirical strength” on the “treatment of uncertainty” is because the logic of appropriateness is “relatively weak” in economic issues. Therefore, “actors will have little incentive to bind themselves to inflexible rules over which they lack individual control.”³⁵ However, nineteenth-century states did inflexibly bind themselves in the CTS regime for invaluable compensations: “to exert a similar influence” on trading partners and secure reciprocal “stability and certainty for [their export-oriented] commercial interests.”³⁶ The regime reduced uncertainty about trading partners’ future behavior and underpinned an extraordinarily high level of prewar institutional autonomy unappreciated by either neoliberals or constructivists.

The 1870s trade regime therefore provides an unexplored historical vista from which to make some strong institutionalist claims. First, France’s CTS regime created and maintained the prewar international trading system. Second, the regime’s design made it ontologically independent from the configuration of interstate power

29. James and Lake 1989, 16, 6.

30. Dunham 1930, 302.

31. Koremenos, Lipson, and Snidal 2001, 726.

32. Keohane and Martin 1995, 40, 47.

33. Koremenos, Lipson, and Snidal 2001, 726.

34. See Rosendorff and Milner 2001, 829; and Koremenos, Lipson, and Snidal 2001, 1054.

35. Wendt 2001, 1031–32.

36. See Stone 1907, 51–52; and Ford 1902, 145.

and interest that originally created the institution. Third, the institution autonomously changed states' interests after 1860 from what they would have been in its absence, and the regime was self-enforcing.

Methodology

Historical institutionalism³⁷ makes three general claims central to understanding prewar regime maintenance. First, a methodological emphasis on institutional form, rather than the focus on function of rational choice institutionalists, gives greater explanatory mileage.³⁸ Second, executive officials manipulate domestic (and, as I will show, international) institutional arrangements to enhance state autonomy vis-à-vis social forces and pursue their interests. Third, states are rational unitary actors, or organizational structures composed of laws and domestic (plus, I include, international) institutional arrangements shaped by previous events. State institutions, once formed, tend to endure and constrain states' choices even after the constellation of interests, coalitions, ideas, and/or politico-economic conditions that originally gave rise to them no longer prevails or exists.³⁹ Institutions are minimally defined as explicit or implicit, formally negotiated or informal, inter-subjective arrangements among actors that facilitate some behaviors but constrain others.

To deliberately construct a more rigorous hard-test of institutional autonomy than realism's test of institutional inefficacy, I apply the same "least-likely" hard-test method⁴⁰ Grieco deployed for the 1970s to the more turbulent 1870s. International institutions, Grieco claims, were marginal to the 1970s Tokyo Round's outcomes, which were instead dictated by considerations of relative gains.⁴¹ This finding raises serious implications if the prewar regime autonomously shaped outcomes, and relative gains considerations did not impede nineteenth-century commercial cooperation, especially under conditions in which it is theoretically proposed they should:⁴² in an extremely competitive multipolar international security environment among real and potential military revivals.

Constructing the strongest hard-test of institutional autonomy requires that the research design achieve two simple objectives: (1) isolate the impact of the CTS on states' behavior by examining a period in which the underlying political conditions and interests that gave rise to the regime rapidly changed but the institu-

37. See Weber 1958; Haggard 1988; Ikenberry 1988; and Steinmo, Thelen, and Longstreth 1992.

38. See Hall and Taylor 1996.

39. See Evans, Rueschemeyer, and Skocpol 1985; Ikenberry 1988; Haggard 1988; Steinmo, Thelen, and Longstreth 1992; Destler 1992; and Goldstein 1993.

40. See Eckstein 1992; and Stinchcombe 1968.

41. Grieco 1993.

42. Gowa and Mansfield 1993.

tion remained relatively constant,⁴³ then (2) specify whether and why states' behaviors were incongruent with executive preferences. Strong institutionalist claims are least likely to be validated in the prewar era amid a rapid succession of system-threatening crises, the absence of hegemonic leadership, and bipolarity. One could therefore argue *a fortiori* that if an informal MFN-based international institution had strong causal effects among military rivals in the multipolar 1870s, it is all the more likely that a formal institution at least mattered among alliance partners in the bipolar 1970s.⁴⁴

The MFN Clause, Multilateralism, and the Negarchical Conventional Tariff System Regime

The MFN clause is a rule of international law that guarantees equality of treatment—equally favorable or unfavorable—to create a simple civil regime of negative rights and positive obligations. Contracting states are granted the negative right of freedom from discrimination and are in return legally bound to confer the positive obligation of equality of treatment/nondiscrimination. Contemporary scholars, however, conflate the MFN clause with Britain's distinctly different unilateral free trade policy. They then erroneously claim that the MFN clause makes trade a public good, leads to free-riding, impedes cooperation, and creates high transaction costs because its constitutive nondiscrimination norm precludes exclusion.⁴⁵ Unlike Britain's unilateral free trade, the prewar unconditional MFN clause merely obligated states to “automatically and immediately,” not unconditionally, generalize tariff reductions to *treaty-powers*: states not party to the original agreement but enjoying MFN status for having formerly concluded unexpired treaties in which they made past reciprocal tariff reductions. A treaty-power did not acquire a gratuitous gift but “paid for it in advance.”⁴⁶ “Gratuitous concession taken in a literal sense is unknown.”⁴⁷

The MFN clause was devised to reduce uncertainty by automatically preventing discrimination against treaty-powers and repetitive treaty renegotiations “every time conditions are altered by a new commercial treaty.”⁴⁸ To fulfill the double objectives, the clause is an equality-of-treatment “legal contract” that embodies “two kinds of rights”: *original* and *derived*.⁴⁹ Original rights are the bilaterally negotiated tariff reductions and privileges that the directly contracting parties recip-

43. Keohane and Martin 1995, 47, claim the method, although “difficult” to design and execute, provides the strongest test.

44. On bipolarity's advantages, see Waltz 1988; and Christensen and Snyder 1990.

45. See Pahre 2001, 868; Keohane 1984; and Axelrod and Keohane 1985.

46. See Culbertson 1925, 70; Viner 1951, 20; Herod 1901, 12; Meredith 1904, 13–14; and Catudal 1941, 49.

47. Herod 1901, 12. See also Culbertson 1925, 70, 61–62; and Viner 1951, 20.

48. Snyder 1948, 35.

49. *Ibid.*, 13, 15.

roccally exchange for ten to twelve years. Derived rights, however, “accrue indirectly through the operation of the clause.”⁵⁰ They are the legal guarantee of equal treatment to all past, present, and future treaty-powers with unexpired conventions that they will automatically receive every concession granted in past and future accords, even without being original/present co-contractants. “The clause is . . . self-executing, that is to say, that any . . . favor granted by one State to another is immediately secured to the nations enjoying the privileges of the clause, as though the favor had been expressly granted to them simultaneous with the original grant or favor.”⁵¹ Newly granted rights are automatically generalized backward—and past original rights generalized forward—to all treaty-powers as their temporal derived rights (that is, new rights derive from pre-existing or newly acquired treaty-power status). Derived rights therefore bind states together, making each responsible not only for obligations undertaken with an original party but also to all their past and future treaty-powers.

Bilaterally Negotiated Multilateralism

Derived rights transformed a series of bilaterally negotiated treaties into a multilateral regime. “The conclusion of a number of reciprocal treaties or conventions results, therefore, in the formation of a single [multilateral] conventional tariff consisting of the lowest rates granted in any of those treaties and [is] applied uniformly to all foreign countries entitled to favored nation treatment.”⁵² A state undertaking MFN “obligations places itself in a system of economic units . . . Were trade essentially bilateral—that is, isolated between pairs of nations—there would be no need for the clause.”⁵³ Therefore, a “bilateral treaty is to a certain extent converted into a multilateral treaty by the unconditional most-favored-nation principle.”⁵⁴ Bilateralism, however, differs from “the method of negotiating bilaterally to open up markets for multilateral trade. Cobden and Chevalier showed . . . in 1860 that the bilateral method of negotiation can be used effectively to stimulate a world-wide expansion of multilateral trade, and that in doing so, good use can be made of the unconditional form of most-favored-nation treatment.”⁵⁵ Nonetheless, the same MFN clause that underpinned the fabulously successful prewar CTS regime was blamed for unspecified “problems during the nineteenth century,” system collapse in the 1920s and 1930s, and the difficulties during the 1970s and 1980s.⁵⁶

50. *Ibid.*, 15.

51. Herod 1901, 28. See also Snyder 1948, 15; and Catudal 1941, 53–54.

52. Stone 1909, 303–4. See also Haight 1941, 37–38.

53. See Snyder 1948, 222.

54. Culbertson 1937, 189. See also Gregory 1921, 80.

55. See Condliffe 1950, 224.

56. See Conybeare 1985, 152; Rhodes 1993; Conybeare 1987; Oye 1992; and Axelrod and Keohane 1985.

What Is the Conventional Tariff System?

The CTS regime is the multilateral institutional foundation of the world economy.⁵⁷ The then “well-known”⁵⁸ but now forgotten prewar general-and-conventional tariff system had six reciprocally reinforcing international and domestic institutional features. The three international components were:

1. The institutionalization of the legally self-executing unconditional MFN clause in a negotiable tariff.
2. The negotiable tariff coupled with rate reductions and conventionalization to contractually ensure tariff stability, equality of treatment, and the maximum international constraints on autonomous tariff-making by sovereign states.
3. The explicit legal requirement that mutual agreement be attained for upward alterations of conventionalized tariffs within MFN treaties in force. This implicitly established an informal multilateral regime predicated on bilateral consultation among treaty-powers as the mode of resolving potential disputes.

Domestically the CTS was underpinned by statist machinery. Institutionally speaking:

4. The prevailing autonomous tariff principle was abandoned. Tariff-making power was shifted away from the porous legislature and concentrated in the insulated executive branch for negotiating tariff-treaties, or *conventions* as they were called in Europe. Legislators’ responsibility “to their constituents would . . . be done away with, and the voters would be deprived of whatever direct control they may exercise now over tariff legislations.”⁵⁹
5. Commercial policies were jointly formulated by technocrats in executive-controlled domestic institutions embodying “embedded autonomy,”⁶⁰ and by diplomats in international conventions to place tariff-making above legislative mischief and permit minimal to no opportunities for legislative input after negotiations.
6. Independent information-gathering and data-analyzing capacities were institutionalized within the executive department of government to weaken domestic producers operating through the legislature.⁶¹

Above all, the CTS “must have as its underlying basis the unlimited application of the most-favored-nation principle.”⁶² The clause by itself, however, did not

57. Coutain 2005, chaps. 1–2.

58. See Tasca 1938, 166–67.

59. Stone 1908, 113.

60. See Evans 1995; and Gregory 1921, 44–65.

61. See Stone 1908; and Gregory 1921.

62. Stone 1908, 118. See also Republican National Committee 1908, 123.

create an international trade regime. With the exception of the period from 1830 to 1860, the instrument had been the dominant feature in commercial treaties since the thirteenth century. The CTS regime was established in 1860 only by combining the clause, conventionalization, and a negotiable tariff—creating an international contractual environment. The combination in the 1860 treaty and subsequent agreements constituted “in their modern form, a whole new body of international practice”—which was “a collective contract based on equality of treatment guaranteeing to the countries concerned what they regard as the indispensable minimum of commercial policy.”⁶³ “After 1860 the clause was generally included in treaties between European states and its nonexistence in the arrangements between any two countries was evidence of strained relations.”⁶⁴ How did a decentralized MFN-based regime privatize trade, prevent free-riding, induce interstate cooperation, and maintain commercial order amid anarchy? The answer resides in institutionalized exclusion operationalized by the double-schedule regime design and decentralized enforcement.

The Double-Tariff Regime

France in the 1860 Cobden-Chevalier Treaty inaugurated the double-schedule general-and-conventional tariff system. The higher and pre-existing autonomous general tariff was fixed by the legislature, applied to states that did not conclude tariff-treaties with France, and could be autonomously raised anytime. The new conventional tariff, by contrast, was mutually set in international treaties by diplomats assisted by executive-controlled tariff commissions and applied only to treaty-powers.⁶⁵ The conventions specified “the exact rates to be respectively applied to each other’s products, and such rates [could] not be raised during the [ten-year] life of the treaty” unless the parties mutually consented.⁶⁶ Unlike Britain’s tariff-autonomy-based unilateral free trade policy, France’s CTS regime was contractual.

The CTS regime was achieved by a basic institutional innovation: France’s shift from *simple MFN agreements* to MFN-based *tariff-treaties*. The technical distinction between the two is critical to understanding the fundamentally changed interstate practice after 1860. Parties concluding simple MFN agreements maintained tariff autonomy and left their duties unmodified. They retained the right to increase tariffs anytime but mutually promised not to discriminate against each other by exchanging MFN pledges. Governments concluding tariff-treaties or conventions, by contrast, contractually relinquished tariff autonomy by mutually reducing and

63. See League of Nations 1928, 137, and 1936, 11; Snyder 1948, 4, 80, 210; and Hornbeck 1909, 395.

64. Haight 1941, 37–38.

65. See Laughlin and Willis 1903, 231; Gregory 1921, 44–65; and Stone 1907, 52, and 1908, 108–9.

66. Stone 1907, 52. See also Whale 1967, 204.

binding duties for ten to twelve years. Venerable MFN agreements were consistent with Britain's autonomous tariff principle; recent tariff-treaties were not.⁶⁷

The formal repudiation of tariff autonomy "marked a complete change in the significance of treaties of commerce."⁶⁸ The practice of revising and binding all the tariffs of states in international conventions was "without precedent or example, and the whole [new] course of procedure had to be created."⁶⁹ Negotiations took place "on the basis of complete freedom" and with "no limit to the reductions which might . . . be made."

When such reductions, or series of reductions, as [sequentially] negotiated with different countries and embodied in separate treaties are reduced to formal order, and are extended freely or in virtue of the most-favoured-nation clause to a large number of trading nations, there is consequently obtained a second tariff, the conventional tariff, which is so-called because all its elements are contained in different treaties; the autonomous [general] tariff, which formed the basis for negotiations, still applying to countries whom no arrangements have been concluded. In this way the bilateral tariff takes one particular form—that known as the . . . conventional tariff. The net effect of such an arrangement is to tie the contracting party for a series of years, in so far as the conditions stipulated in the conventions are concerned.⁷⁰

Napoleon III and Chevalier deliberately generalized the exclusionary conventional schedule under the clause but applied the general tariff to nonsignatories⁷¹ to privatize trade among signatories, prevent free-riding, and induce interstate cooperation. Britain's unilateral free trade led to free riding before 1860. But fear of facing the general tariff and concomitant trade diversion, while competitors received the lower conventional schedule, forced states to conclude treaties quickly with France.⁷² The 1860 treaty "was the first step in a deliberate policy which led Napoleon within the next few years to the conclusion of similar treaties with almost every European country except Russia."⁷³ The regime "was the outgrowth of a policy of Napoleon III, who, largely for political reasons, aimed at removing existing tariff barriers in the international trade of France, his treaties having for their object and effect the adoption of what came to be very near free trade."⁷⁴ In the 1860s "Britain signed only four more tariff-treaties; and France had signed a treaty with three of those four countries before Britain."⁷⁵ See Table 1.

67. Condliffe 1950, 217, 219.

68. Haight 1941, 37–38.

69. Morley 1881, 506. See also Dunham 1930, 142.

70. Gregory 1921, 70. See also Stone 1908, 108–9; Morley 1881, 539–40; and *Commercial Treaties* 1870, 19–20.

71. Meredith 1904, 13–14.

72. See Ashley 1926, 301; and Stone 1908, 103.

73. Bury 1964, 62. See also Haight 1941, 36; Dunham 1930, 349–50; Pollard 1974, 38; Ashley 1926, 302; Morley 1881, 539; and Hobson 1919, 260–61.

74. Stone 1908, 103. See also Gladstone 1870, 295.

75. Lazer 1999, 474.

TABLE 1. *Constituent members of France's conventional tariff system*

<i>Treaty powers</i>	<i>Years</i>
England	1860
Belgium	1861
The Zollverein	1862
Italy	1863
Switzerland	1864
Sweden	1865
Norway	1865
Hanes towns	1865
Spain	1865
Netherlands	1865
Austria	1866
Portugal	1867

Derived Rights and Regime Maintenance

Derived rights maintained the regime by establishing a self-enforcing multilateral sanctioning mechanism against defection, which was made up of an intricately interlocking institutional architecture. Bilaterally negotiated accords were interlinked via the “double operation” of MFN-based tariff-treaties—opening markets to foreign industries and guaranteeing that no member could reduce tariffs “without all the other members at once partaking in the increased trading facilities thereby created.”⁷⁶ But derived rights are double-edged, generalizing both tariff reductions and increases to all treaty-powers in order to uphold the cardinal nondiscrimination norm. Upward tariff revision in a single bilaterally negotiated agreement therefore did not solely affect the original contracting party but also violated the derived rights generalized to every treaty-power.

By interlocking all the bilaterally negotiated commercial treaties of a state into a single network, derived rights erected a potent multilateral, but decentralized, enforcement mechanism that was the commercial equivalent of a self-enforcing collective security regime. Unlike the case of dubious collective security in defense matters,⁷⁷ a tariff increased on one infringed on the tangible interests of all. The interrelationships among national tariff systems made every state within the CTS a highly interested stakeholder in regime maintenance. A country contemplating tariff increases was consequently exposed to multilateral retaliation from every treaty-power in the form of discriminatory treatment at best, or exclusion at worst, in their markets.

76. See Morley 1881, 539–40; and Commercial Treaties 1870, 19–20.

77. Mearsheimer 1995.

Self-help and anarchy did not lead to the absence of decentralized institutional structures that autonomously constrained nineteenth-century states. Britain's preferred autonomous tariff principle made international trade anarchical before 1860. But the interstate practices institutionalized in France's CTS—conventionalization and derived rights—thereafter transformed commercial relations from anarchy to a contractual *negarchy*. The neglected third organizing principle—developed to explain the 1787–1861—is a liberal/republican system of decentralized institutional constraints deliberately situated between the hierarchy-anarchy continuums to prevent the emergence of both extremes. But negarchy is also applicable to nineteenth-century Western European commercial relations since its “overall system architecture negates.”⁷⁸ While treaties were in force, the reduced rates stipulated within them could not “be raised without the consent of the other party.”⁷⁹ The CTS's legal requirement that states first secure mutual agreement to modify conventionalized tariffs was fundamentally transformative. The explicit obligation implicitly established a highly articulated but informal multilateral regime predicated on bilateral consultation between original contracting parties and all treaty-powers for upward tariff revision. Conventions were interlinked by the MFN clause contained within each “into a [single] system in which a change in any country's import policy was bound to affect all its trading partners. In practice that meant that tariff changes required negotiations.”⁸⁰

Entering the CTS was easily achieved via bilaterally negotiated tariff reductions, but exiting under derived rights required a diplomatic mission impossible. “In order to affect any [upward] alteration in the conventional tariff system it is necessary to obtain the [unanimous] consent of all foreign nations which were parties to the original” treaty along with the consent of all treaty-powers.⁸¹ Derived rights maintained the regime by making legal upward revision of a single bilaterally negotiated treaty an impossibly arduous multilateral enterprise—and the penalty for illegal unilateral revision widespread retaliation. The negarchical regime underpinned unprecedented system stability by freezing autonomous tariff-making in a cryonic bath of crushing multilateral institutional constraints that no normal state could violate without ruinous consequences.

Explaining the 1870s Puzzle: Institutional Stability Amid Change

The CTS regime underpinned system stability despite dramatically altered conditions. The ten-year 1860 treaty was concluded by Napoleon III and Chevalier to

78. Deudney 1995, 208.

79. Stone 1908, 109. See also Laughlin and Willis 1903, 23; Stone 1907, 52; Haight 1941, 61–62; and Whale 1967, 204.

80. Tumlrir 1985, 19–20. See also Gregory 1921, 70.

81. See Millard 1909, 340; Stone 1908, 109; Dunham 1930, 319; and Thiers 1915, 261.

overcome domestic constraints and autonomously prevent future defection by redistributing preference within France. In 1852, Napoleon III began a Saint-Simonian/statist economic liberalization program via imperial decrees, but the initiative stalled in 1856 when the protectionist legislature led by Thiers rallied in defense of the existing tariff regime.⁸² Chevalier then convinced Napoleon III to invoke Article VI of the 1852 Constitution “whereby tariff rates stipulated in treaties of commerce, signed by the Emperor, had the force of law” without legislative ratification.⁸³ In a 12 May 1860 interview, Chevalier explained that for years “I always told [Cobden] that [tariff reductions] could be affected only by a treaty.”⁸⁴ Treaty supporters predicted that binding tariffs for a decade would provide sufficient time for the growth of export interests within France. These interests would then form a countervailing coalition against entrenched protectionism “superior to those political changes which from time to time alter the condition of the world.”⁸⁵ The 1870s powerfully tested the prediction.

Unimaginable opportunities opened to France’s protectionists in the 1870s. The Franco-Prussian War deposed Napoleon III. All the regime’s supporters “were violently expelled and smeared as the collaborators of ‘the despot.’”⁸⁶ Thiers, Napoleon’s strongest protectionist opponent, became president of the Third Republic in February 1871. He was a leader “of unusual vigor and ability” and “undoubtedly the most popular man in France.”⁸⁷ In a 5 April 1862 interview, Thiers claimed Napoleon III, through the 1860 treaty, had “wantonly ruined our manufactures.”⁸⁸ The regime became his target. Thiers ousted free-traders from the Superior Council of Commerce and Industry and appointed protectionists to the body and as ministers of commerce and finance.⁸⁹

The survival of the unpopular economic reforms Napoleon III autocratically initiated, through a treaty scheduled to expire in 1873, would be remarkable given France’s chronic political instability.⁹⁰ In 1864 Cobden wrote Chevalier: “I confess I am not satisfied that you do not continue to make further reforms . . . Time is passing . . . Are you sure that in 1870 you will be so completely under the Free Trade régime as to prevent the government of that day (God knows what it may be) from going back to protection after the Anglo-French Treaty expires?”⁹¹ The unpopular 1860 treaty was “a private conspiracy” among Chevalier, Cobden, and the Emperor. “The Franco-Prussian War threw discredit on everything imperial, encouraged national antagonisms, [and] demanded additional fiscal measures.” It

82. Iliasu 1971, 79. On Saint-Simonism, see Mason 1931; and Eckalbar 1979.

83. Haight 1941, 30–31. See also Dunham 1930, 48.

84. “Conversation with Chevalier,” in William Senior 1878, 314–15.

85. *Edinburgh Review* 1860, 162.

86. Zeldin 1958, 3.

87. See Dunham 1930, 296; and Simon 1879, 255.

88. “Conversation with Thiers,” in William Senior 1878, 111.

89. Smith 1980, 37, 46, 56.

90. On France’s instability, see Rose 1894; and Gladstone 1870, 296.

91. Morley 1881, 613.

might “have been easily predicted that, as soon as the Empire fell, France would retrogress” toward protectionism.⁹² But “contrary to conventional wisdom, there was no popularly mandated scuttling of Napoleon III’s free trade policies and no return to protection after 1870.”⁹³

What window of opportunity the war opened to protectionists was slammed shut by the international constraints institutionalized in the negarchical CTS regime. Thiers’s effectiveness as a government minister and parliamentarian in blocking tariff reforms from 1834–36, in 1851, and again in 1856⁹⁴ inspired the very institutional design that would bring his downfall. In 1860 he forced Napoleon III to bypass the assembly to secure the goal of internationalizing France’s tariff within the French-led Napoleonic treaty network. Napoleon had two policy objectives: to place rate-making in international conventions and inflexibly bind duties to place tariffs beyond tampering by protectionist legislators,⁹⁵ Thiers principal among them.

Thiers Versus the CTS

The war’s disastrous aftermath presented the ideal crisis conditions for French defection. The new government faced two staggering tasks conducive to tariff increases: restoring internal order and raising revenues to pay the war indemnity. Germany obligated France to pay 5,000 million francs, the extraordinary sum of \$1 billion at the time, in reparation for Bismarck’s premeditated war. The Preliminary Peace Treaty specified that German troops would not be completely withdrawn from France until Prussia was paid in full.⁹⁶

Raising revenues to end foreign occupation created a postwar financial crisis that provided Thiers with an opportunity to reimpose protection. An indirect and invisible moderate tariff increase, rather than direct and visible income taxation, was the most politic choice for the new and weak Third Republic. Thiers admitted the invisibility of his tariff tax proposal was its principal advantage.⁹⁷ He thought he could raise about 350 million francs via various forms of internal taxation; the rest would have to be collected through tariff increases. “His . . . main anxiety at this time was to secure revenues.”⁹⁸ But as time passed, Thiers realized the financial crisis provided the ideal opportunity to reverse the economic liberalization Napoleon III had institutionalized in the secretly negotiated 1860 treaty, then auto-

92. Fisher 1896, 343.

93. Smith 1977, 293–94. See also Levasseur 1892, 35; Fisher 1896, 343; and Verdier 1994, 93.

94. See Ratcliffe 1978, 109–10, 129; *Edinburgh Review* 1860, 151; Meredith 1904, 35; and Iliasu 1971, 79.

95. Protectionists’ successes in blocking reforms led to treaties, see Smith 1980, 35.

96. See Plessis 1985, 170; Stone 1907, 45; Lord 1924; and Giesberg 1966, 279.

97. See Dunham 1930, 298; and Thiers 1915, 208.

98. Ashley 1926, 307.

cratically imposed on France without legislative consent and with the threat of force.⁹⁹

The institutional design of the CTS, however, thwarted Thiers's protectionist initiative. States receiving "most-favored-nation treatment . . . [were] practically guaranteed a certain lower schedule of duties, which the country granting them [was] under [contractual] obligations never to raise during the life of the commercial treaties between it and its fellow powers."¹⁰⁰ Conventions could only be denounced after their ten-year expiry by giving an advance year's notice.¹⁰¹ Aware of international obligations, Thiers acknowledged tariff increases "were forbidden by commercial treaties." France therefore opened negotiations with treaty-powers to secure their consent for upward revisions.¹⁰²

Thiers's Diplomatic Mission Impossible

Beginning with Britain, Thiers commenced the laborious diplomatic process to achieve bilaterally negotiated unanimous consent. He admitted the feasibility of his tariff increase proposal "was subject to the success of our negotiations with the various Powers to whom we were bound by commercial treaties."¹⁰³ But if he secured Britain's imprimatur for moderate upward revisions, it would be easier to convince the other treaty-powers. Thiers believed Britain would be accommodating due to expected tariff increases under Napoleon III after the Treaty expired in 1873 and Britain's traditional policy. The 1868 legislative *réaction protectionniste* against the treaty system¹⁰⁴ forced the government in 1870 to appoint a tariff commission to make adjustments at treaty expiry. Had the Second Empire survived the Franco-Prussian War, "England would have been asked to consent to the revision of the Treaty of 1860 in the direction of higher protection."¹⁰⁵ Thiers in March 1871 told Lord Lyons, England's ambassador, that he liked the "traditional British policy of letting each nation regulate its own commercial legislation" and had no plans "to reverse the imperial policy of moderate protection; nor did he desire to renounce the treaty of 1860." Instead he "sought an early agreement with England chiefly because her devotion to free trade was so well known that any increases of duties that she accepted would not be rejected as unduly protective by other states having treaties with France." Thiers wanted to "get rid of the whole system of commercial treaties." But he continued "to speak of the importance of making all

99. Dunham 1930, 130, 296.

100. Laughlin and Willis 1903, 23. See also Stone 1907, 52, and 1908, 109.

101. See Gregory 1921, 70; and Stone 1908.

102. See Thiers 1915, 209, 261; and Dunham 1930, 319.

103. Thiers 1915, 19, 261; and Dunham 1930, 298–99, 319.

104. See Thiers 1915, 305; and Smith 1977, 294.

105. Dunham 1930, 297. See also Meredith 1904, 37.

changes by mutual agreement, and of the overwhelming need for more revenue.”¹⁰⁶ Britain refused to negotiate upward tariff revision.

Derived rights, not laissez-faire Britain, created the insurmountable obstacles to French defection. “France was bound by her treaties of commerce until 1877,”¹⁰⁷ because the ten-year 1867 Portugal Accord, the last of the 1860s treaties, would expire in 1877. The original rights granted Britain in 1860 and automatically generalized to subsequent treaty-powers had to remain in effect until the last treaty expired to avoid violating the derived rights of states with unexpired conventions. The 1867 Portugal treaty was consequently not an isolated bilateral agreement, but a multilateral accord containing extensive derived rights from the 1860 treaty and subsequent conventions. The “unconditional form of the clause . . . was a potent means of restraining tariff increases during the latter part of the nineteenth century.” The treaties “which ran for long periods contained provisions binding tariff items against increase. This had the effect of preventing, during the currency of the treaty, any increase of duties on a large list of imports. Since every country had many treaties containing such provisions and expiring at different dates, it became difficult to embark upon whole-sale tariff increases.”¹⁰⁸

Exasperated with Britain’s refusal to negotiate tariff increases in the 1860 treaty, Thiers in 1871 issued an ultimatum. Either Britain negotiate upward revisions or he would renounce the accord, deny England MFN status, and place British commerce and navigation at differential disadvantage vis-à-vis other states in the lucrative French market by imposing the general tariff. Then “Thiers told Lyons that he had always thought the treaty of 1860 disastrous for France, although beneficial for England, and that he had always wanted its denunciation.”¹⁰⁹ British recalcitrance led him to act on his threat. The two most important conventions, the 1860 Cobden-Chevalier and 1861 Franco-Belgian treaties, were the only accords that could be legally denounced in December 1871. Thiers did so to raise revenues on 15 March 1872.¹¹⁰

After rejecting the use of an income tax, Thiers sought to raise revenue by reimposing the tax on raw materials that Napoleon III had abolished.¹¹¹ On 12 June 1871, Thiers introduced a tariff bill in the National Assembly that imposed rate increases on raw materials that Napoleon III had placed on the free list, reimposed export duties, levied harbor dues (or *surtaxes de pavillon*) on foreign-flagged ships, and, despite treaty prohibition, increased *ad valorem* tariff on textiles and manufactured goods by 20 percent. Incredibly, “Thiers claimed that he could raise duties on imports without violating the terms of the treaties . . . In practice the attempt would have been difficult, because of the binding force of existing

106. Dunham 1930, 299–300. See also Thiers 1915, 305.

107. *Ibid.*, 298–99, 319. See also Smith 1980, 39; and Ford 1902, 121.

108. Condliffe 1950, 223. See also Pollard 1974, 117; and Dunham 1930, 310–11.

109. Dunham 1930, 300–1.

110. See *ibid.*, 298–99, 301; and Verdier 1994, 95.

111. Thiers 1915, 208.

treaties, and especially difficult in the face of the treaty with England, about to expire in February, 1873.”¹¹² Although Thiers acknowledged treaties prohibited increasing tariffs on manufactured goods, he had no “doubt as to France’s right to tax . . . raw materials.”¹¹³

The National Assembly, the majority of whom were protectionists, rejected Thiers’s proposed tariff. Even protectionists considered the services the regime provided “indispensable”: equality of treatment, a guarantee against sudden tariff changes, predictable contractual environment for long-term planning, stable market access, and duty-free raw materials. The defeat of his bill led Thiers to promptly resign on 20 January 1872, but the National Assembly rejected his resignation.¹¹⁴

Three days later, Thiers sent a second tariff bill to the assembly, but with lower proposed tariff increases. The assembly appointed a fifteen-member Parliamentary Committee of eminent experts to inquire whether Thiers’s raw material tax “could be made productive” and imposed under treaty obligations. The committee consulted with Chevalier, John Stuart Mill, and sixty other prominent French and British experts before presenting its findings to the assembly on 3 July 1872. The body was split ten to five on the merits of the raw material tax, with the majority dissenting, but unanimous on its imposition. The Parliamentary Committee concluded: “France is bound by certain treaties of commerce which do not expire until 1878, and the Committee finds the proposed tax incompatible with these treaties.”¹¹⁵ Thiers dismissed committee members as narrow “specialists” blind to the full situation and argued France’s liberty to impose raw material taxes was compromised by the Second Empire but not destroyed. When challenged by committee member M. Rouher—former minister of commerce, and French negotiator and signer of the 1860 treaty—Thiers exploded, arguing that “in spite of the treaties you made our liberty exists, and we are using it to negotiate with the Governments concerned, which have shown great good sense and the best of dispositions towards us.”¹¹⁶ Rouher replied he would sign the treaties again, acknowledging that France’s liberty was indeed “compromised, but the engagement is on the basis of mutual [restraints and] benefits. It must not be forgotten that most nations of Europe . . . are also governed by their treaties of commerce.”¹¹⁷ Thiers’s shipping surtax and emasculated tariff bill nonetheless passed on 26 July 1872.¹¹⁸

Thiers’s 1872 tariff and earlier renunciation of the Anglo-French and Franco-Belgian treaties were tactical maneuvers designed to force England to the negotiating table, not regime defection. The Napoleonic treaty network remained the

112. Ford 1902, 121. See also Ashley 1926, 307.

113. Thiers 1915, 211.

114. See Dunham 1930, 308–9; Smith 1977, 302–3, and 1980, 39; and Thiers 1915, 215.

115. Ashby 1872.

116. Thiers, cited in Ashby 1872.

117. Rouher, cited in Ashby 1872.

118. Dunham 1930, 313.

“most serious obstacle to the restoration of high protection.”¹¹⁹ “France was bound [until 1877] by the network of commercial treaties, of which the English Treaty of 1860 was the foundation, with respect to most of the duties that could be increased. She would have to negotiate for the modification of [all] these treaties or else denounce them . . . before their expiration, at the risk of injuring her trade through reprisal, and possibly her political relations.”¹²⁰ Modifications in one bilaterally negotiated treaty could “*only* produce changes in the conventional tariff” and had to “be applied to all countries.”¹²¹ Thiers admitted that “the tax on raw material, as far as its collection went, was subject to the success of our negotiations with the various Powers to whom we were bound by commercial treaties.”¹²²

Thiers desperately needed a new accord with Britain to facilitate agreements with treaty-powers. He demanded that Britain renegotiate the Anglo-French Treaty to incorporate the rate increases in his 1872 tariff, or face the punitive general tariff. England had returned to negative free trade in 1865 and “was not so favourable to the idea of commercial treaties as they had been in 1860.”¹²³ Although not frightened by Thiers’s threat to denounce the treaty,¹²⁴ Britain was terrified of being denied MFN status in the French market—the second largest in the world. Having unilaterally reduced her tariffs without reciprocal compensation, Britain had “no concessions to offer . . . and [had to] be satisfied with benefit reflected to it merely through its most-favored-nation clause.”¹²⁵ Lord Lyons asked Thiers to grant Britain MFN status. But the “President said that he could not give England most-favored-nation treatment for an unlimited period because that would prevent him from increasing the French tariff in the future by compelling him, either to get the consent of all other powers with whom France had commercial treaties, or wait until those treaties had expired.”¹²⁶

War-shattered France at its nadir forced “hegemonic” England to again deviate from its autonomous tariff preference. Britain’s refusal to negotiate after the denunciation of the 1860 treaty left Thiers with one remaining option. He threatened to impose the general tariff on British commerce and the new shipping surtax on its navigation if the 1860 accord expired before a new treaty was concluded.

Thiers would be legally free to tax British goods and ships in French ports as much as he liked and England would find herself in a very disadvantageous position as compared with other nations with whom France had treaties of commerce and navigation. Her only security then would lie in making the French fear that she would levy duties on their goods in reprisal. Yet it would

119. See *ibid.*, 319.

120. *Ibid.*, 298–99, 319. See also Smith 1980, 39; and Ford 1902, 121.

121. Gregory 1921, 70. Italics in the original.

122. Thiers 1915, 261.

123. See Dunham 1930, 304; Ashley 1926, 310; and Morley 1881, 535.

124. Ashley 1926, 310.

125. Republican National Committee 1908, 123. See also Hornbeck 1909, 818.

126. Dunham 1930, 310–11.

be difficult to arouse that fear, because England could not actually make such reprisal, since they would violate the principle of free trade to which she had declared herself firmly attached.¹²⁷

On 5 November 1872, Thiers forced Britain to conclude a tariff-treaty on the basis of his 1872 legislation. “England’s fear of discrimination against her shipping and of being placed in a less advantageous position than other nations . . . in trade with France was a factor of importance in the Anglo-French negotiations. Without this factor it seems probable that England would have allowed Thiers to break off the negotiations entirely.”¹²⁸

France in return pledged not to impose some rate increases on raw materials contained in the 1872 tariff and granted England MFN treatment and exemption from the shipping surtax.¹²⁹ Thiers wrote: “I reckoned that as soon as England accepted the compensating duties, Belgium and Italy would accept them in their turn, since they could no longer cite the example of England to justify their opposition. And our treaty once signed with that Power, Belgium hastened to sign a similar one.”¹³⁰ After initial resistance, he reached agreement with Belgium by making further pledges not to impose some rate increases on additional raw materials.¹³¹ Thiers diplomatically succeeded with Belgium and “hegemonic” Britain. But the derived rights of other treaty-powers contained in the successfully renegotiated 1860 Anglo-French and 1861 Franco-Belgian treaties would still prove his undoing.

Derived Rights as International Constraints

Derived rights, by creating a nexus between all of a state’s commercial treaties, presented Thiers with an insoluble dilemma. He could either leave other treaty-powers in possession of the 1860 and 1861 conventional rates by imposing his new 1872 tariff solely on Britain and Belgium or impose it equally on all treaty-powers to uphold nondiscrimination. The former would derogate the regime’s constitutive nondiscrimination norm, but the latter would violate the derived rights of states with unexpired conventions. Retaliation would certainly follow. “The system of commercial treaties, most of which were framed to last for long periods, could not be immediately broken up without exciting great political as well as industrial frictions.”¹³²

Thiers’s only legal option “to avoid flagrant discrimination against England and Belgium, who had reluctantly negotiated new agreements,” was “to secure the modification of the treaties with France with the other states of Europe. His supreme

127. *Ibid.*, 313–14. See also *Edinburgh Review* 1843.

128. Dunham 1930, 304.

129. Thiers 1915, 305.

130. *Ibid.*

131. Ashley 1926, 310.

132. Fisher 1896, 343.

error was his failure to realize that none of the states to whom France was bound was willing to modify their treaty in a protectionist sense.”¹³³ Thiers argued that tariff increases were intended to pay war reparations, not re-establish protection. But his well-known protectionism undermined the diplomatic initiative: “in all the countries of Europe Thiers was known to be an ardent protectionist. He had defended the old system of prohibitions before 1860.” Therefore, “none of the treaty states were prepared to consider the modification of their agreement with France.”¹³⁴

The CTS and Thiers’s Downfall

The negarchical regime’s institutional design changed the state interest of France and prevented its defection by simultaneously unifying international opposition before violation and empowering the institution’s domestic supporters. Derived rights thwarted Thiers’s attempt to reimpose *surtaxes de pavillon* on foreign-flagged ships. The surtaxes were “virtually abolished” under Napoleon III by the Act of 19 May 1866. The 1866 Austro-French Commercial and Navigation Treaty was framed on the new law and “through the most-favored-nation clause, was extended to most of the other states of Europe”¹³⁵ as their derived rights. Since the Cobden-Chevalier Accord “scarcely touched on . . . navigation,”¹³⁶ the Austro-French Treaty “became of great importance” to treaty-powers when Thiers re-established the surtaxes in 1872. “As long as the [1866] treaty and their most-favored-nation agreements with France were in force, the reimposition of these [shipping] taxes did not apply to their commerce.”¹³⁷ France therefore requested that Austria relinquish its navigation privileges under the 1866 treaty, but Bismarck weighed in. Austria, under German pressure, refused. Bismarck on 26 April 1872 sent Austria a grateful dispatch:

The [commerce and navigation] treaties which France in this case proposes to modify, continue in force until 1876 . . . So long as these treaties with Austria are in force, the rights therein guaranteed to that Power will be enjoyed by all countries which are entitled to be treated by France, on the same footing as the most favored nation. These treaties were part of a liberal commercial system which France had the credit of initiating.¹³⁸

Bismarck concluded:

It is, therefore, the common interest of all the European States that the commercial treaties concluded by France at a former period shall remain in force

133. Dunham 1930, 319, 317–18.

134. See *Edinburgh Review* 1860, 151; Meredith 1904, 35; and Dunham 1930, 299.

135. Dunham 1930, 307. See also Long 1936, 475.

136. Thiers 1915, 304.

137. Long 1936, 486.

138. “French Commercial Policy: Prince Bismarck’s Views on the Thiers Policy of Protection,” *New York Times*, 26 October 1872.

until public opinion in France had overcome the now prevailing inclination in favor of a protective tariff ... It is ... a fortunate circumstance for the commercial development of Europe, that the Government ... which the present situation has accorded so decisive an influence on the politico-commercial development of Europe clearly recognizes the obligation this situation imposes, and is ready to discharge it.¹³⁹

“This meant that the surtaxes voted by the National Assembly could not be applied to the ships of most European states.”¹⁴⁰

The regime also defeated Thiers’s tariff increases by strengthening his domestic opponents.¹⁴¹ Liberal traders in the assembly—aware that the CTS prohibited increasing tariffs on manufactured goods—shrewdly married the proposed raw material taxes with the conventionalized tariffs on manufactured goods, to Thiers’s admitted “astonishment.” “They pretended that we could only impose a tax on raw materials if, by way of compensation to our manufactures, we taxed at the same time foreign goods made with these materials; but ... these taxes were forbidden by commercial treaties, the Powers to whom we were bound by these treaties would certainly not authorize us to establish them. Therefore, according to our opponents, the [raw material] tax we proposed was impossible.”¹⁴²

Napoleon III triumphed again through his institutional legacy. Thiers’s 1872 tariff “could not be carried into execution, owing to the resistance made by the states with which France had treaties of commerce, and was therefore repealed.”¹⁴³ On 14 March 1873, the assembly voted “that the conventional tariffs then in force, which were those of the treaties of 1860 and 1861 with England and Belgium respectively, should remain in force until new ones had been put into operation.”¹⁴⁴ Thiers’s inability to secure the consent of other treaty-powers for upward revision led him to offer his second resignation in May 1873. Marshal MacMahon assumed the presidency. He “immediately restored the ousted free traders and commissioned the council to draw up plans to liquidate Thiers’s fiscal and tariff policies.”¹⁴⁵ The numerous exceptions to the 1872 tariff and shipping surtaxes incorporated in the renegotiated British and Belgian treaties and “the practical impossibility of doing anything with the proposed duties on raw materials”—due to unexpired conventions—“brought the National Assembly to the uselessness of the two enactments.” Both were repealed in July 1873.¹⁴⁶ “Within two months of

139. Bismarck cited in *ibid.*

140. Dunham 1930, 307.

141. On international institutional empowerment of domestic supporters, see the needlessly complex explanatory vehicle, with many moving parts, of Cortell and Davis 1996.

142. Thiers 1915, 209.

143. Levasseur 1892, 28. See also Smith 1980, 145.

144. Dunham 1930, 316.

145. Smith 1980, 46.

146. Ashley 1926, 310.

his fall from office Thiers saw all his efforts to change the tariff policy of France checked.”¹⁴⁷

The regime’s multilateral, but decentralized and self-enforcing, sanctioning mechanism blocked French defection through negative linkages. Derived rights transformed bilaterally negotiated MFN treaties into multilateral instruments with corresponding multilateral obligations by interlocking national tariff systems into one network. No state could therefore autonomously revise tariffs upward without unraveling the delicately interwoven tapestry of international commercial relations and threatening the tangible economic interests of all. John Stewart Mill admitted that his despair over the wanton violations of the political (and nonself-enforcing) Vienna treaties when the “interest and that relative strength” of the parties changed finds no parallel in contemporaneous commercial conventions.¹⁴⁸ The regime’s self-enforcing character was underpinned by the same self-interested individual rationality that collective action theory predicts will impede cooperation under the clause.¹⁴⁹ But derived rights aggregated the narrow self-interests of individually rational egoists, tied them into a multilateral cluster of mutually interconnected legal obligations, made a breach against one a breach against all, and thereby gave states a broader collective rationality and overwhelming incentive to maintain the collective good.

Even in the absence of central enforcement, unadulterated self-interest dictated French compliance with treaty obligations. Upward revision of a single bilaterally negotiated treaty would ripple across the multilateral regime, injuring the tangible interests of all. Treaty-powers would individually respond, spontaneously producing a collective retaliatory avalanche that would rain down on France at its lowest moment and exacerbate, rather than ameliorate, the country’s economic difficulties. The costs of unilaterally tinkering with the Napoleonic regime would simply dwarf any expected benefits. The editor-in-chief of the *Economiste Français* noted in 1879: “Though this [1860] treaty has been denounced for nearly ten years, nothing has yet been found to substitute it. It has been prorogued from year to year without the power, without the daring to modify it.”¹⁵⁰ When France threatened to nullify the 1862 Franco-Prussian/Zollverein Treaty during the peace negotiation, Bismarck said that he would “rather begin a shooting war again than to become involved in a tariff war.”¹⁵¹ As Gorter observes, “some of our strongest institutions depend very little upon formal legal contract to spell out the duties, rights, and obligations of their members. Mutual interest in the survival of the . . . institution plus common understanding . . . among the members suffice to perpetuate it.”¹⁵²

147. Dunham 1930, 316. See also Crandall 1904, 176–77.

148. Mill 1870, 715–16.

149. Olson 1993, 122–27.

150. Paul Leroy Beaulieu cited in Robinson 1880, 32–33.

151. Giesberg 1966, 164.

152. Gorter 1954, 8.

When the MacMahon government “proposed a return to the 1860 conditions in 1873, it was surprised to find itself coldly received by the British.”¹⁵³ Gladstone, the sole champion of the 1860 treaty in Lord Palmerston’s cabinet, was prime minister in 1871 and “in an even more favorable position to determine the commercial policy of England than he had been in 1860. But, since Cobden’s death in 1865, opposition to commercial treaties had become strong in England and Gladstone had gone over to it.”¹⁵⁴ In an 1872 Foreign Office memorandum, Gladstone consciously rejected even “subtle and indirect” leadership:

We made in the case of the Treaty of 1860 a great and marked exception to a well established rule for what we thought well defined and very strong reasons. We seem by this means to have given considerable force to the Free Trade movement on the continent of Europe. When these powerful considerations are removed, and not only removed but reversed, is not our safest course to fall back upon our old basis, namely that the cause of freedom in commerce will, as a rule, be most effectively advanced by leaving each nation to consider the subject in light of its own interests?¹⁵⁵

Britain responded to MacMahon’s proposal by informing France that England “had had enough of commercial treaties and that she believed in the freedom of each country to set its own tariffs subject only to security for British trade and navigation against any special disfavour.”¹⁵⁶

When the MacMahon government concluded a new Anglo-French agreement in 1873, “the whole system established by the Anglo-French Treaty of 1860 and its supplementary conventions were restored . . . England was left in possession of the moderate tariff duties in France to which she had been entitled before Thiers assumed office.” MacMahon was dissatisfied; he wanted more protection for French industry. But “the treaties of commerce with the other states of Europe remained in force and those states had signified their refusal to consent to their modification. Nothing effective could be done, therefore, toward a general revision of the French tariff before 1877 at the earliest.”¹⁵⁷ To renew the expiring accords, France concluded a series of tariff-treaties that were scheduled to expire in 1877 but could thereafter be renewed for three years until ten-year replacements were concluded. “The result was a scheme for a moderate tariff which reproduced almost without alteration the rates of duty established by the conventional tariff already in force [with the 1860 treaty].”¹⁵⁸

The regime’s differential lever, embodied in the general-and-conventional tariff schedules, constrained and altered the behavior of even the unsupportive “hege-

153. Platt 1968, 89.

154. Dunham 1930, 302. See also Platt 1968, 374.

155. Gladstone cited in Dunham 1930, 303.

156. Platt 1968, 361.

157. See Dunham 1930, 316–18. See also Smith 1980, 38.

158. Ashley 1926, 311–12. See also Haight 1941, 48; and Crandall 1904, 176–77.

mon.” The 1873 Anglo-French Treaty distressed England. “She had been obligated to consent to the revival of the system of 1860,” which was “a compromise forced by peculiar circumstances and far from wholly correct in principle or satisfactory in details.” French officials (and evidently HST’s proponents) “seem to have been ignorant of England’s indifference to the Treaty of 1860.”¹⁵⁹

Britain Exits

Despite the Vienna stock market crash and the resulting depression of 1873–96, Britain exited the regime in 1882. “France demanded reductions of duties on wines, but Great Britain would neither consent to that nor agree to guarantee that they would not be advanced during the life of the treaty.”¹⁶⁰ The Anglo-French Treaty of 1882 therefore “took the form merely of a [simple] most-favoured-nation agreement.”¹⁶¹

France single-handedly maintained the 1860 regime until 1892. Beginning in 1881, France concluded a series of ten-year treaties and produced a new conventional tariff. It “included some 1,200 articles on which the rates of duties were either reduced or ‘conventionalised’—i.e., made unchangeable so long as the treaties would be in force—whilst 300 (including those on grain and cattle) remained subject in all cases to the rates of the general tariff.”¹⁶² Agriculture was removed from regime governance—as textile in the 1960s was uncoupled from the General Agreement on Tariffs and Trade (GATT)¹⁶³ and agriculture never incorporated. Nonetheless, the 1880–82 treaties “replaced all of those duties, except those on agricultural products, with a new conventional tariff which by and large perpetuated the duties in effect since 1860. In this manner, the reforms of 1881–1882, far from re-establishing protection—as most textbooks still suggest they did—actually extended the free trade system of the Second Empire for ten more years.”¹⁶⁴ To “create a barrier against the protectionist reaction,” the treaties “were to remain in force for a period of ten years” and made “impossible” to change until expiry on 1 February 1892.¹⁶⁵ In 1890 “the government declared that ‘the tariff regime adopted ten years ago (1881) by France did not differ much from the direction given in 1860 to its commercial policy.’”¹⁶⁶

Protectionism led France to abandon the Napoleonic treaty network upon its 1 February 1892 expiry.¹⁶⁷ “The reason for the drastic change lies in the dissatisfac-

159. Dunham 1930, 317–18.

160. See Rosenberg 1943; Gourevitch 1977; and Stone 1907, 42. See also Ashley 1926, 316–17; and Dunham 1930, 338.

161. Dunham 1930, 349. See also Platt 1968.

162. Ashley 1926, 316, 317.

163. Aggarwal 1985.

164. See Smith 1980, 309–10. See also Ashley 1926, 316; and Haight 1941, 48–49.

165. Haight 1941, 48–49.

166. Levasseur 1892, 35.

167. *Quarterly Journal of Economics* 1892, 338–40.

tion with the conventional tariff, the inflexibility of ten-year treaties, and the prevalent unpopularity of the most-favored-nation clause.”¹⁶⁸ France’s January 1891 notice that it would abandon the treaties led panicked German manufacturers to petition their government to end Bismarck’s autonomous tariff policy (1879–92): the “possibility of a treaty-less condition frightened them.”¹⁶⁹ “No less than fifteen agreements would end on or around February 1, 1892.”¹⁷⁰ “Germany then could not well avoid playing the role, which to that time had been played by France, as a champion of a policy of tariff-treaties throughout Europe.”¹⁷¹ After exploiting the “perpetual” MFN status France granted in the Frankfort Treaty to legally defect from 1879–92, Germany “stepped into the shoes” of France and in 1891 began concluding the Caprivi treaty network.¹⁷² “All the treaties concluded hitherto go into effect on February 1 [1892], the identical day on which the French treaty arrangement ceases. They are to remain in force for a period of twelve years, and thereafter are terminable after a year’s notice.”¹⁷³ “Europe—and, indeed, the whole world—was spared the impoverishment attendant upon a tariff war.”¹⁷⁴ Germany then led the CTS until World War I.¹⁷⁵

Conclusions

Fellow institutionalists now have a more rigorous hard-test of institutional autonomy. This study answers the question, “do institutions matter?” in the affirmative and shows how and why institutions autonomously produce powerful causal effects under unlikely conditions. The hard-test of institutional autonomy presented by the CTS makes a general case for studying how well-designed regime features influence states’ behavior. “We know what came of the futile attempts of M. Thiers to reverse the whole [Napoleonic trade] policy.”¹⁷⁶ The MFN clause during the 1870s “represented too great a restraint on freedom of action.”¹⁷⁷ The CTS’s very multilateralism, embodied in the MFN clause, explains the regime’s survival. A mere substantive bilateral agreement would have easily collapsed amid British indifference and French hostility. The self-enforcing negarchical regime completely changed the behavior of France by making defection too costly. Derived rights imposed enormous institutional deterrence against autonomous upward tariff revision by legally compelling all states to first secure bilaterally negotiated multilat-

168. Haight 1941, 61.

169. See Stone 1907, 46; and Dietzel 1903, 391.

170. Gerschenkron 1943, 48–49.

171. Lotz 1907, 267.

172. See Ashley 1926, 115; Giesberg 1966, 290; and Stone 1907, 40, and 1908, 103–4.

173. *Quarterly Journal of Economics* 1892, 340.

174. Gerschenkron 1943, 50.

175. See Meredith 1904, 56; Stone 1908, 103; Lotz 1907, 267; and Coutain 2005, chap. 7.

176. Levi 1877, 17.

177. Snyder 1948, 237.

eral consent from every treaty-power. But if deterrence failed, they automatically erected a potent multilateral enforcement mechanism against illegal upward revision. The resulting negative linkages produced unprecedented cooperation and tariff stability in a turbulent world economy underpinned by the much-maligned and misunderstood unconditional MFN clause.

The multilateral linkage logic underpinning the CTS has contemporary international security and economic implications. It explains the anomaly of U.S. President George W. Bush's puzzling insistence on "multilateral six-party talks" on nuclear nonproliferation with North Korea that has been infamous for breaking international commitments. U.S. officials strategically have sought "multilateral" negotiations since defection would also rupture North Korea's relations with China, South Korea, Russia, and Japan—exponentially increasing the costs via negative linkages. On the economic front, derived rights resemble cross-default clauses designed by private bank syndicates to help manage the 1980s debt crisis by interlocking their mutual interests to constrain unilateral actions.¹⁷⁸

Refocusing on historical institutional development can change conceptions of the past and shed light on the present. As Hoffmann noted: "Political scientists concerned with international affairs have concentrated on the politics of the post-war era; and when they have turned to the past, it has all too often been either in highly summary . . . almost 'college outline' fashion . . . It leads not only to the neglect of a wealth of past experiences . . . but also to a real deficiency in our understanding of the international system of the present."¹⁷⁹

Lengthening the historical horizon to prewar tariff systems calls into question four central concepts in current international relations theory by suggesting their explanatory scopes are limited to the post-World War II era. First, the CTS weakens claims that "free trade" is "more likely within, rather than across, political-military alliances" and under bipolarity rather than multipolarity, because a bipolar system internalizes security externalities among allies and reduces the risks of exit.¹⁸⁰ The CTS regime not only emerged in an extremely competitive multipolar international security environment among actual and potential military rivals. It was also more nondiscriminatory and liberal than the U.S.-led GATT regime, instituted among allies under bipolarity. The clause prohibited discrimination in favor of allies by establishing the equality of treatment practice as the cardinal rule of interstate conduct, applicable to friends and foes alike within a single regime. Second, the regime therefore provides little evidence that relative gains considerations impeded prewar cooperation. Third, the CTS regime illustrates that multilateralism did not first arise in the post-World War II era due to U.S. hegemony and the shift from portfolio to relation-specific investments, the emergence of bipolarity, or bipolarity combined with the types of strategic games executive

178. See Lipson 1981; and Kahler 1985.

179. Hoffmann 1977, 57.

180. See Gowa and Mansfield 1993, 408, and 2004.

officials were confronted with in the international system.¹⁸¹ A self-enforcing multilateral regime was inaugurated in 1860 by nonhegemonic France and maintained by institutionalized interstate practices, not hegemony. Regime stability was underpinned not by the concentration of power in a single state, but by the diffusion of interlocking institutionalized interests among all parties. Finally, implicitly showing that Britain was normatively prohibited by its 1846 principles from initiating and assuming hegemonic leadership of the prewar regime reduces HST to a single instance: United States from 1945–65.

British hegemonic management of the nineteenth-century system is a myth¹⁸² that nonetheless informs current policy with disastrous consequences. The theoretical notion that one powerful country could manage the globe abysmally fails easy tests in Iraq and Afghanistan. History's most powerful hegemon—aided by its predecessor, the “coalition of the willing,” and supporting local governments—is bogged down in a seemingly intractable struggle to impose its writ on collapsed states. Potential “hegemonic” management of the international system is precluded by the rise of other power centers, the diffusion of military technologies, nationalism, and international norms delegitimizing coercion and overt interference. Studying how variations in institutional features facilitate or impede interstate cooperation is critical, since institutions must perforce play a larger role in managing international affairs. The challenge for policymakers is to carefully design informal and formal intersubjective arrangements to meet three objectives: make potential defectors stakeholders; multilateralize interests in regime survival; and establish a decentralized enforcement mechanism among members that, via negative linkages, targets and isolates defectors by making a single violation ripple across the entire membership. Scholars could draw from a vast reservoir of past informal and formal institutional practices.

With historically myopic commentators bemoaning the temporary collapse on 29 July 2008 of the World Trade Organization (WTO) Doha Round at the time of this writing,¹⁸³ the past holds important general lessons for keeping the present regime open. Multilateralism could be exclusionary without being discriminatory. Four prewar design features privatized trade, solved the collective action problem, eliminated free-riding, and induced interstate cooperation. These were the exclusionary general-and-conventional tariff; the generalization of concessions only to treaty-powers under the MFN clause; bilaterally negotiated regime accession; and treaty expiry in a decade. Free-riding on the current regime is not an inherent feature of the clause. It was made possible by contemporary institutional design: the novel unconditionality and perpetuity of the unconditional MFN practice institutionalized in Article I of the 1947 GATT. “General Most-Favoured-Nation Treatment” obligates states to “immediately and unconditionally” extend concessions to “all

181. See Yarbrough and Yarbrough 1992; Gowa 1989; and Martin 1992.

182. See Gladstone 1870; and Morley 1870.

183. Economist 2008.

other contracting parties,”¹⁸⁴ some of whom made little or no reciprocal tariff reductions, such as India. Combining the clause’s new unconditionality with the GATT’s institutional perpetuity created a free-rider’s paradise. Unlike the permanent GATT, the expiry of prewar commercial treaties forced states, that is, Germany, to make reciprocal concessions or face exclusion. The 1979 Tokyo Round codes on subsidies and nontariff barriers, although erroneously criticized as deviating from multilateralism,¹⁸⁵ are examples of exclusions compatible with multilateralism.

Two implications for contemporary trade policy flow out of my analysis: the expiry of specific agreements “nested” within the permanent WTO should be allowed after ten to fifteen years¹⁸⁶ and nonsignatories should be excluded from their benefits. Under the CTS, the negative right of freedom from discrimination was tightly coupled with the reciprocal positive obligations to liberalize and extend nondiscriminatory treatment. The prewar regime was neither created nor maintained by the irresponsible unilateral free trade policy of Britain—which extended its low tariffs to all states and gave none an incentive to reduce their duties—but by contractual reciprocal tariff reductions and institutionalized exclusion backed by effective decentralized enforcement. The GATT (Articles XXII and XXIII) nonetheless replaced the negarchical prewar regime’s decentralized enforcement mechanism with a quasi-formal monstrosity mislabeled a “dispute settlement provision,” which almost institutionalized impunity. The provision’s unanimity requirement was analogous to a civil justice system in which a defendant sits on his/her own jury under the institutional rule of unanimous consensus for verdicts. The weaknesses of the poorly designed GATT—a hastily devised stopgap measure never intended to become the permanent governance structure of international trade it did after replacing the stillborn International Trade Organization (ITO)—does not undermine the efficacy of institutions. The prewar CTS shows that a well-designed informal commercial institution underpinned by, of all things, the unconditional MFN clause could be remarkably strong. But the GATT is often treated as the archetypical commercial institutional experience and single frame of reference on which overwhelmingly ahistorical studies of trade institutions extrapolate. Commercial institutions then are understandably weak, as exemplified by the RDP’s uncertainty-flexibility conjecture. Important epistemological issues then emerge. Critics of commercial institutions are often unconsciously criticizing one flawed, among many possible alternative, institutional designs: the GATT. Could knowledge of comparative prewar regime designs illuminate mind-changing alternative conceptions of institutional efficacy foreclosed by fixating on the GATT/WTO? The CTS at least suggests some policy prescriptions.

The WTO’s replacement of the GATT’s unanimity rule with a judicial and binding dispute settlement mechanism is a distinct design improvement.¹⁸⁷ But a sup-

184. GATT 1947, 2.

185. Krasner 1979.

186. On nesting, see Aggarwal 1985.

187. Jackson 1998.

plemental decentralized enforcement mechanism akin to the prewar system would markedly enhance the extant procedure. The WTO could establish an independent Compliance Committee and empower the body to make binding judicial findings on whether members are in compliance with tariff/nontariff regulations and issue a target-list identifying states out of compliance with a nested WTO accord. All contracting parties should be legally authorized and encouraged to individually restrict the top five to ten export items in the foreign trade of any target-listed signatory. The ITO's framers envisioned a decentralized enforcement mechanism operating identically to the one institutionalized in the prewar CTS: via exclusion¹⁸⁸ "likened to ostracism in the Greek city states or excommunication in medieval times." The ITO would "release" states from their MFN obligations to an offending party: "any or all of them might then freely impose discriminatory duties on his trade, employ quantitative restrictions, or other weapons of economic warfare . . . restricted by the charter."¹⁸⁹ Differential treatment for noncompliance is not technically discrimination since the offending party has temporarily forfeited its WTO membership and concomitant legal protection, which could be regained upon becoming regime-compliant.

Decentralized enforcement, underpinned by institutionally fostered negative linkages, holds great potential to strengthen the current system in two ways: by altering states' calculation on the international level and shaping domestic coalitional activities in liberal directions. First, myopic politicians would find less attractive election year "politricks," that is, disingenuously imposing unsustainable higher steel tariffs, if all contracting parties are legally authorized to individually impose supplemental sanctions on top of institutional penalties. The prospect of entering a commercial state of nature would shift the cost-benefit calculus toward compliance—keeping even the powerful, Gulliver-size United States compliant by the prospect of a regime-mobilized combination of economic Lilliputians. Uncertainties about multiple trading partners' next moves, and the costs of dispatching diplomatic delegations across the globe to secure bilateral understanding would exercise potent international deterrents—tying-down potential defectors to regime norms solely through the brute force of rational calculations underpinned by the mere prospect of punitive decentralized institutional constraints. Like the prewar CTS, the regime would pre-emptively block defections before they occur by the latent threat of know and commercially destabilizing unknown consequences. Second, restricting the top five to ten export items in the foreign trade of offending states would also be domestically liberalizing. Competitive industries in noncompliant countries—now facing uncertainties and potential adverse actions to their overseas interests resulting from their home governments' protectionist policies intended to help weak domestic sectors—are likely to form potent and potentially decisive countervailing coalitions against protectionism.¹⁹⁰ States will have more

188. Wilcox 1947, 534.

189. Bidwell 1947, 555–56.

190. On the antiprotectionist coalition in trade policy, see Destler and Odell 1987.

incentives to make painful domestic adjustments, since exporting their problems would be prohibitively costly.

The applicability of prewar interstate practices to the current regime, however, is obscured by overdrawn distinctions between the past and present. One eminent economic historian, for example, erroneously claims the nineteenth-century regime had four disadvantages vis-à-vis the juxtaposed GATT. He argued that commercial treaties concluded after 1860 “ensured only non-discriminatory . . . treatment,” never created a single system, placed no limits on tariff rates, and left “each country free to set their tariffs without an effective external constraint on tariff behaviour.” “These [bilateral] arrangements arose without multilateral cooperation. Yet despite the lack of any oversight mechanism or institutional basis, this regime (if it can be called that) brought about relatively low trade barriers.”¹⁹¹ But invisible and informal—without a building, bureaucracy, or budget—the prewar regime ironically imposed more effective international constraints on autonomous national action than its inferior, formally institutionalized GATT/WTO lineal descendant. The Franco-Prussian War would have made France eligible to invoke the vast array of escape clauses and exceptions institutionalized in the GATT/WTO under *clausa rebus sic stantibus*.¹⁹² Institutional informality is not weakness.

The neglected nineteenth-century regime extends the theoretical and empirical boundaries of social scientific inquiry into the decentralized institutional sources of world order. The prewar regime speaks with great clarity and theoretical sophistication to contemporary concerns. Drawing on its insights sooner may have shifted institutionalist research into more fruitful directions earlier by obviating the misdirected effort expended in the 1980s on whether institutions matter. The prewar regime graphically shows they obviously do and under the most unlikely conditions. Ignoring the old institutionalist literature, the conventional European double-schedule, and autonomous U.S. single-schedule tariff regimes it documented severely limited our understanding of past and contemporary institutions. Fortunately, the defects are easily remedied by refocusing on variations in nineteenth-century international institutional forms: unglamorous comparative tariff systems.

References

- Aggarwal, Vinod K. 1985. *Liberal Protectionism: The International Politics of Organized Trade in Textiles*. Berkeley: University of California Press.
- Ashby. 1872. Parliamentary Proceeding. *New Republic*, 17 July 1872.
- Ashley, Percy. 1926. *Modern Tariff History*. New York: E. P. Dutton.
- Axelrod, Robert, and Robert O. Keohane. 1985. Achieving Cooperation Under Anarchy. *World Politics* 38 (1):226–54.

191. Irwin 1995, 100, 323. See also Yarbrough and Yarbrough 1992.

192. See Jackson 1998. On *clausa rebus sic stantibus*, see Bullington 1927.

- Barton, John H., Judith L. Goldstein, Timothy E. Josling, and Richard H. Steinberg. 2006. *Evolution of the Trade Regime: Politics, Law, and Economics of the GATT and WTO*. Princeton, N.J.: Princeton University Press.
- Benvenisti, Eyal, and Moshe Hirsch. 2004. *The Impact of International Law on International Cooperation: Theoretical Perspectives*. Cambridge: Cambridge University Press.
- Bidwell, Percy. 1947. International Trade Organization—Discussion. *American Economic Review* 37 (2):554–59.
- Brown, Lucy. 1959. *The Board of Trade and the Free-Trade Movement, 1830–1842*. Oxford, England: Clarendon.
- Bueno De Mesquita, Bruce. 1990. Pride of Place: The Origins of German Hegemony. *World Politics* 43 (1):28–52.
- Bullington, John P. 1927. International Treaties and the Clause ‘Rebus Sic Stantibus.’ *University of Pennsylvania Law Review and American Law Register* 76 (2):153–77.
- Bury, J. P. T. 1964. *Napoléon III and the Second Empire*. New York: Harper & Row.
- Catudal, Honore Marcel. 1941. The Most-Favored-Nation Clause and the Courts. *American Journal of International Law* 35 (1):41–54.
- Christensen, Thomas J., and Jack Snyder. 1990. Chain Gangs and Passed Bucks: Predicting Alliance Patterns in Multipolarity. *International Organization* 44 (2):137–68.
- Cline, William. 1982. *Reciprocity*. Washington, D.C.: Institute of International Economics.
- . 1870. *Commercial Treaties*. London: Macmillan.
- Condliffe, John Bell. 1950. *The Commerce of Nations*. New York: Norton.
- Conybeare, John A. C. 1985. Trade Wars: A Comparative Study of Anglo-Hanse, Franco-Italian, and Hawley-Smoot Conflicts. *World Politics* 38 (1):147–72.
- . 1987. *Trade Wars: The Theory and Practice of International Commercial Rivalry*. New York: Columbia University Press.
- Cortell, Andrew P., and James W. Davis Jr. 1996. How Do International Institutions Matter? The Domestic Impact of International Rules and Norms. *International Studies Quarterly* 40 (4):451–78.
- Coutain, Bryan. 2005. The Multilateral and Bilateral Provision of Trade: Institutional Forms and the Content of Commercial Cooperation in the World Economy, 1860–1995. Ph.D. diss., University of Pennsylvania.
- Crandall, Samuel. 1904. *Treaties, Their Making and Enforcement*. New York: Columbia University Press.
- Culbertson, William Smith. 1925. *International Economic Policies: A Survey of the Economics of Diplomacy*. New York: Appleton.
- . 1937. *Reciprocity: A National Policy for Foreign Trade*. New York: Whittlesey House.
- Destler, I. M. 1992. *American Trade Politics*. 2d ed. Washington, D.C.: Institute for International Economics.
- Destler, I. M., and John S. Odell. 1987. *Anti-Protection: Changing Forces in United States Trade Politics*. Washington, D.C.: Institute for International Economics.
- Deudney, Daniel H. 1995. The Philadelphian System: Sovereignty, Arms Control, and Balance of Power in the American States-Union, circa 1787–1861. *International Organization* 49 (2):191–228.
- Dietzel, H. 1903. The German Tariff Controversy. *Quarterly Journal of Economics* 17 (3):365–416.
- Dunham, Arthur Louis. 1930. *The Anglo-French Treaty of Commerce of 1860 and the Progress of the Industrial Revolution in France*. New York: Russell & Russell.
- Eckalbar, John C. 1979. The Saint-Simonians in Industry and Economic Development. *American Journal of Economics and Sociology* 38 (1):83–95.
- Eckstein, Harry. 1992. Case Study and Theory in Political Science. In *Regarding Politics: Essays on Political Theory, Stability, and Change*, 152–63. Berkeley: University of California Press.
- Economist*. 2008. Dried Up: Talks over the Doha Round of Global Trade Negotiations Have Collapsed. *The Economist*. Online ed. 29 July 2008. Available at (http://www.economist.com/finance/displayStory.cfm?story_id=11831960&source=features_box_main). Accessed 14 October 2008.
- Edinburgh Review*. 1843. Free Trade and Retaliation. LXXVIII (CLVII):1–47.

- . 1860. Commercial Relations Between England and France. CXI (CCXXVI):145–62.
- . 1867. The Prussian Campaign of 1866. CXXV (CCLVI):185–200.
- . 1891. Germany and Von Moltke. CLXXIV (CCCLVIII):528–65.
- Evans, Peter B. 1995. *Embedded Autonomy: States and Industrial Transformation*. Princeton, N.J.: Princeton University Press.
- Evans, Peter B., Dietrich Rueschemeyer, and Theda Skocpol. 1985. *Bring the State Back In*. Cambridge: Cambridge University Press.
- Fisher, Herbert. 1896. The Protectionist Reaction in France. *Economic Journal* 6 (23):341–55.
- Ford, Worthington Chauncey. 1902. The Commercial Policy of Europe. *Publications of the American Economic Association* 3 (1):118–57.
- General Agreement on Tariffs and Trade* (GATT). 1947. Vol. I. New York: United Nations Publications.
- Gerschenkron, Alexander. 1943. *Bread and Democracy in Germany*. Berkeley: University of California Press.
- Giesberg, Robert. 1966. *The Treaty of Frankfurt: A Study in Diplomatic History, September 1870–September 1873*. Philadelphia: University of Pennsylvania Press.
- Gilpin, Robert. 1987. *The Political Economy of International Relations*. Princeton, N.J.: Princeton University Press.
- Gladstone, William. 1870. Germany, France, and England. *Edinburgh Review* CXXXII (CCLXIX): 284–304.
- . 1887. The History of 1850–60. *English Historical Review* II.
- Goldstein, Judith. 1993. *Ideas, Interests, and American Trade Policy*. Ithaca, N.Y.: Cornell University Press.
- . 1996. International Law and Domestic Institutions: Reconciling North American “Unfair” Trade Laws. *International Organization* 50 (4):541–64.
- Gorter, Wytze. 1954. GATT After Six Years: An Appraisal. *International Organization* 8 (1):1–18.
- Gourevitch, Peter. 1977. International Trade, Domestic Coalitions, and Liberty: Comparative Responses to the Crisis of 1873–1896. *Journal of Interdisciplinary History* 8 (2):281–313.
- Gowa, Joanne. 1989. Bipolarity, Multipolarity, and Free Trade. *American Political Science Review* 83 (4):1245–56.
- Gowa, Joanne, and Edward D. Mansfield. 1993. Power Politics and International Trade. *American Political Science Review* 87 (2):408–20.
- . 2004. Alliances, Imperfect Markets, and Major-Power Trade. *International Organization* 58 (4):775–805.
- Gregory, Theodor Emanuel. 1921. *Tariffs: A Study in Method*. London: Charles Griffin.
- Grieco, Joseph M. 1993. *Cooperation Among Nations: Europe, America, and Non-Tariff Barriers to Trade*. Ithaca, N.Y.: Cornell University Press.
- Haggard, Stephan. 1988. Institutional Foundations of Hegemony: Explaining the Reciprocal Trade Agreements Act of 1934. *International Organization* 42 (1):91–119.
- Haight, Frank Arnold. 1941. *A History of French Commercial Policies*. New York: Macmillan.
- Hall, Peter A., and Rosemary C. R. Taylor. 1996. Political Science and the Three New Institutionalisms. *Political Studies* 44 (5):936–57.
- Herod, Joseph R. 1901. *Favored Nation Treatment*. New York: Banks Law.
- Hobson, John Atkinson. 1919. *Richard Cobden: The International Man*. New York: Holt.
- Hoffmann, Stanley. 1977. An American Social Science: International Relations. *Daedalus* 106:41–60.
- Hornbeck, Stanley Kuhl. 1909. The Most-Favored-Nation Clause. *American Journal of International Law* 3 (2):395–422.
- . 1910. *The Most-Favored-Nation Clause in Commercial Treaties: Its Function in Theory and Practice and its Relation to Tariff Policies*. Madison: University of Wisconsin.
- Howe, Anthony. 1997. *Free Trade and Liberal England, 1846–1946*. New York: Oxford University Press.
- Ikenberry, G. John. 1988. *Reasons of State: Oil Politics and the Capacities of American Government*. Ithaca, N.Y.: Cornell University Press.

- Iliasu, A. A. 1971. The Cobden-Chevalier Treaty of 1860. *Historical Journal* 14 (1):67–98.
- Irwin, Douglas A. 1993. Multilateral and Bilateral Trade Policies in the World Trading System: A Historical Perspective. In *New Dimensions in Regional Integration*, edited by Jamie De Melo and Arvind Panagariya, 90–118. New York: Cambridge.
- . 1995. The GATT in Historical Perspective. *American Economic Review* 85 (2):323–28.
- Jackson, John Howard. 1998. *The World Trade Organization: Constitution and Jurisprudence*. London: Royal Institute of International Affairs.
- James, Scott C., and David A. Lake. 1989. The Second Face of Hegemony: Britain's Repeal of the Corn Laws and the American Walker Tariff of 1846. *International Organization* 43 (1):1–29.
- Kahler, Miles. 1985. Politics of International Debt: Explaining the Crisis. *International Organization* 39 (3):357–82.
- Katzenstein, Peter J. 1978. *Between Power and Plenty: Foreign Economic Policies of Advanced Industrial States*. Madison: University of Wisconsin Press.
- Keohane, Robert O. 1984. *After Hegemony: Cooperation and Discord in the World Political Economy*. Princeton, N.J.: Princeton University Press.
- Keohane, Robert O., and Lisa L. Martin. 1995. The Promise of Institutional Theory. *International Security* 20 (1):39–51.
- Kindleberger, Charles P. 1981. Dominance and Leadership in the International Economy: Exploitation, Public Goods, and Free Rides. *International Studies Quarterly* 25 (2):242–54.
- . 1986. *The World in Depression, 1929–1939*. Berkeley: University of California Press.
- Koremenos, Barbara, Charles Lipson, and Duncan Snidal. 2001. The Rational Design of International Institutions. *International Organization* 55 (4):761–99.
- Krasner, Stephen D. 1976. State Power and the Structure of International Trade. *World Politics* 28 (3):317–47.
- . 1979. The Tokyo Round: Particularistic Interests and Prospects for Stability in the Global Trading System. *International Studies Quarterly* 23 (4):491–531.
- Lake, David. 1988. *Power, Protection, and Free Trade: International Sources of U.S. Commercial Strategy, 1887–1939*. Ithaca, N.Y.: Cornell University Press.
- Laughlin, Laurence, and H. Parker Willis. 1903. *Reciprocity*. New York: Barker & Taylor.
- Lavelle, Kathryn C. 2007. Exit, Voice, and Loyalty in International Organization: U.S. Involvement in the League of Nations. *Review of International Organizations* 2 (4):371–93.
- Lazer, David. 1999. The Free Trade Epidemic of the 1860s and other Outbreaks of Economic Discrimination. *World Politics* 51 (4):447–83.
- League of Nations. 1928. The Most-Favored-Nation Clause. *American Journal of International Law* 22 (1):133–56.
- . 1936. *Equality of Treatment in the Present State of International Commercial Relations: The Most-Favoured-Nation Clause*. Series of League of Nations Publication: II. Economic and Financial II.B.9. Geneva: League of Nations.
- Levasseur, Émile. 1892. The Recent Commercial Policy of France. *Journal of Political Economy* 1 (1):20–49.
- Levi, Leone. 1877. Statistical Results of the Recent Treaties of Commerce Between Different States of Europe. *Journal of the Statistical Society of London* 40 (1):1–18.
- Lipson, Charles. 1981. The International Organization of Third World Debt. *International Organization* 34 (4):603–31.
- Long, Dwight C. 1936. The Austro-French Commercial Treaty of 1866. *American Historical Review* 41 (3):474–91.
- Lord, Robert Howard. 1924. *The Origins of the War of 1870; New Documents from the German Archives*. New York: Russell & Russell.
- Lotz, Walther. 1907. The Commercial Policy of Germany. *Journal of Political Economy* 15 (5):257–83.
- Martin, Lisa L. 1992. Interests, Power, and Multilateralism. *International Organization* 46 (4):765–92.
- Martin, Lisa L., and Beth A. Simmons. 1998. Theories and Empirical Studies of International Institutions. *International Organization* 52 (4):729–77.

- Mason, E. S. 1931. Saint-Simonism and the Rationalisation of Industry. *Quarterly Journal of Economics* 45 (4):640–83.
- McGilchrist, John. 1865. *Richard Cobden, the Apostle of Free Trade: His Political Career and Public Services*. New York: Harper.
- McGillivray, Fiona. 2001. *International Trade and Political Institutions: Instituting Trade in the Long Nineteenth Century*. Cheltenham, England: Edward Elgar.
- McKeown, Timothy. 1983. Hegemonic Stability Theory and 19th Century Tariff Levels in Europe. *International Organization* 37 (1):79–91.
- Mearsheimer, John. 1995. The False Promise of International Institutions. *International Security* 19 (3):5–49.
- Meredith, Hugh Owen. 1904. *Protection in France*. London: P. S. King.
- Mill, J. S. 1870. Treaty Obligations. *Fortnightly Review* XLVIII (VIII):715–20.
- Millard, Thomas F. 1909. *America and the Far Eastern Question*. New York: Moffat, Yard & Co.
- Mitchell, Ronald B. 1994. Regime Design Matters: Intentional Oil Pollution and Treaty Compliance. *International Organization* 48 (3):425–58.
- Mitchell, Ronald, and Patricia M. Keilbach. 2001. Situation Structure and Institutional Design: Reciprocity, Coercion, and Exchange. *International Organization* 55 (4):891–917.
- Morley, John. 1870. France and Germany. *Fortnightly Review* VIII (XLV).
- . 1881. *The Life of Richard Cobden*. Boston: Robert Brothers.
- . 1911. *The Life of William Ewart Gladstone*. New York: Macmillan.
- Nye, John V. C. 2007. *War, Wine, and Taxes: The Political Economy of Anglo-French Trade, 1689–1900*. Princeton, N.J.: Princeton University Press.
- Olson, Mancur. 1993. “Comment.” In *New Dimensions in Regional Integration*, edited by Jamie De Melo and Arvind Panagariya, 122–27. New York: Cambridge.
- Oye, Kenneth A. 1992. *Economic Discrimination and Political Exchange: World Political Economy in the 1930s and 1980s*. Princeton, N.J.: Princeton University Press.
- Pahre, Robert. 2001. Most-Favored-Nation Clauses and Clustered Negotiations. *International Organization* 55 (4):859–90.
- Pauly, Louis. 1996. The League of Nations and the Foreshadowing of the International Monetary Fund. *Essays in International Finance No. 201*, 1–47. Princeton, N.J.: Princeton University.
- Platt, D. C. M. 1968. *Finance, Trade, and Politics in British Foreign Policy 1815–1914*. Oxford, England: Clarendon Press.
- Plessis, Alain. 1985. *The Rise and Fall of the Second Empire, 1852–1871*. Translated by Jonathan Mandelbaum. Cambridge: Cambridge University Press.
- Pollard, Sidney. 1974. *European Economic Integration, 1815–1870*. London: Thames and Hudson.
- . 1892. Notes and Memoranda. *Quarterly Journal of Economics* 6 (3):338–41.
- . 1864a. The Danish Duchies. 115 (230):226–87.
- . 1864b. The Foreign Policy of England. 115 (230):481–529.
- . 1870a. The War Between France and Germany. 129 (258):293–327.
- . 1870b. The French and German Armies. 129 (258):415–54.
- . 1871. The Third French Republic, and the Second German Empire. 130 (260):351–73.
- Ratcliffe, B. 1978. The Tariff Reform Campaign in France, 1831–1836. *Journal of European Economic History* 7 (1):61–138.
- Republican National Committee. 1908. *Republican Campaign Textbook*. Philadelphia: Dunlap.
- Rhodes, Carolyn. 1993. *Reciprocity, U.S. Trade Policy, and the GATT Regime*. Ithaca, N.Y.: Cornell University Press.
- Robinson, Moncure. 1880. Obituary Notice of Michel Chevalier. *Proceedings of the American Philosophical Society* 19 (107):28–37.
- Rose, J. H. 1894. *The Revolutionary and Napoleonic Era, 1789–1815*. London: C. J. Clay.
- Rosenberg, Hans. 1943. Political and Social Consequences of the Great Depression of 1873–1896 in Central Europe. *Economic History Review* 13 (1/2):58–73.

- Rosendorff, Peter B., and Helen V. Milner. 2001. The Optimal Design of International Trade Institutions: Uncertainty and Escape. *International Organization* 55 (4):829–57.
- Saksena, Jyotika. 2006. Regime Design Matters: The CTBT and India's Nuclear Dilemma. *Comparative Strategy* 25 (3):209–29.
- Simon, M. Jules. 1879. *The Government of M. Thiers: From 8th February, 1871, to 24th May, 1873*. New York: Scribner.
- Smith, Michael S. 1977. Free Trade Versus Protection in the Early Third Republic: Economic Interests, Tariff Policy, and the Making of the Republican Synthesis. *French Historical Studies* 10 (2):293–314.
- . 1980. *Tariff Reform in France, 1860–1900: The Politics of Economic Interest*. Ithaca, N.Y.: Cornell University Press.
- Snyder, Richard Carlton. 1948. *The Most-Favored-Nation Clause: An Analysis with Particular Reference to Recent Treaty Practice and Tariffs*. New York: King's Crown.
- Steinmo, Sven, Kathleen Thelen, and Frank Longstreth. 1992. *Structuring Politics: Historical Institutionalism in Comparative Analysis*. New York: Cambridge University Press.
- Stinchcombe, Arthur L. 1968. *Constructing Social Theories*. New York: Harcourt, Brace & World.
- Stone, N. I. 1905. The International Aspect of our Tariff Situation. *North American Review* 180:381–93.
- . 1907. The Double Tariff System. *Annals of the American Academy of Political and Social Science* 29 (May):38–57.
- . 1908. The Conventional Tariff System. *Annals of the American Academy of Political and Social Science* 32 (September):103–18.
- . 1909. Dual Tariff Systems. *American Economic Association Quarterly* 10 (1):301–13.
- Tasca, Henry J. 1938. *The Reciprocal Trade Policy of the United States: A Study in Trade Philosophy*. New York: Russell & Russell.
- Thiers, Louis Adolphe. 1915. *Memoirs of M. Thiers, 1870–1873*. New York: Howard Fertig.
- Thompson, Richard Wiggington. 1888. *The History of Protective Tariff Laws*. Chicago: R. S. Peale.
- Tumlir, Jan. 1985. *Protectionism: Trade Policy in Democratic Societies*. Washington, D.C.: American Enterprise Institute.
- Verdier, Daniel. 1994. *Democracy and International Trade: Britain, France, and the United States, 1869–1990*. Princeton, N.J.: Princeton University Press.
- Viner, Jacob. 1951. *International Economics: Studies*. New York: Free Press.
- Waltz, Kenneth N. 1979. *Theory of International Politics*. New York: McGraw-Hill.
- . 1988. The Origins of War in Neorealist Theory. *Journal of Interdisciplinary History* 18 (4):615–28.
- Weber, Max. 1958. *From Max Weber: Essays in Sociology*. Edited by H. H. Gerth and C. Wright Mills. New York: Oxford University Press.
- Wendt, Alexander. 2001. Driving with the Rearview Mirror: On the Rational Science of Institutional Design. *International Organization* 55 (4):1019–49.
- Whale, Phillip Barrett. 1967. *International Trade*. London: F. Cass.
- Wilcox, Clair. 1947. The London Draft of a Charter for an International Trade Organization. *American Economic Review* 37 (2):529–41.
- William Senior, Nassau. 1878. *Conversations with M. Thiers, M. Guizot, and Other Distinguished Persons, During the Second Empire*, Vol. 2, edited by M. C. M. Simpson. London: Hurst.
- Yarbrough, Robert M., and Beth V. Yarbrough. 1992. *Cooperation and Governance in International Trade: The Strategic Organizational Approach*. Princeton, N.J.: Princeton University Press.
- Zeldin, Theodore. 1958. *The Political System of Napoleon III*. New York: Norton.