Bilateral and Multilateral Cooperation in International Trade
A Political-Economy Perspective

by

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1. Introduction

International trade is the archetypical case of globalization that has been subject to intensive scholarly and public debate for centuries now. Notwithstanding that much research has been done and many arguments exchanged, the causes, effects, and desirability of international commerce are still at center of much discussion. In contrast to this lively debate, very little thought has been put into the form of trade cooperation in terms of bilateralism and multilateralism.

There seems to be a theoretical and an empirical reason for this blind spot of the public and academic discussion of international trade cooperation. Empirically, periods of protectionism and economic downturns are linked to bilateral trade cooperation. In particular, the Great Depression of the late 1920s and early 1930s is taken as the classic example for the disastrous consequences of bilateral trade (e.g., Chase 2004; Culbertson 1937; Kindleberger 1986; Kitson and Solomou 1995; League of Nations 1942; Tasca 1938). Bilateralism is held responsible for rising barriers to trade, retaliatory spirals, and the acceleration of a worldwide recession. The pessimistic view of bilateral cooperation is not limited to academia. Policymakers and the media regularly urge the success of multilateral trade rounds when the negotiations held under the auspices of the General Agreement on Tariffs and Trade (GATT)\(^1\) or the World Trade Organization (WTO) were stalled (e.g., WTO 2005).

Theoretically, there is a broad consensus that bilateralism tends to reduce global welfare compared to multilateralism and unilateralism (e.g., Baldwin 2006b; Bhagwati 1991; Kim 2004). In multilateral trade relations, efficient and inefficient producers compete on a “level playing field”. Uncompetitive producers are not protected from foreign competition through any means. The situation is different under bilateral cooperation if trade flows are diverted from efficient to inefficient producers so that overall welfare diminishes.

There are only a few voices that speak in favor of bilateral trade cooperation. Oye (1993) argues that bilateral trade might promote domestic recovery in times of crisis, e.g., during the Great Depression. A similar claim is made by Dornbusch (1993) who considers bilateralism a viable means in trade relations with specific countries and to achieve liberalization if the multilateral negotiations in the GATT

\(^1\) From here on, “GATT” refers to the regime and “General Agreement on Tariffs and Trade” to the agreement itself.
were stalled. Both Oye and Dornbusch conceive of bilateralism as an instrument that should only be invoked in exceptional circumstances or when multilateralism is infeasible. In this view, their claims do not represent a vigorous counterargument against the conventional perspective.

The almost closed front arguing against bilateralism stands in conflict with the fact that bilateral trade cooperation has been the rule, and not the exception in the history of international commerce. A stylized perspective on the institutional history of international trade shows that bilateral cooperation was in place in periods of liberalization and in periods of protectionism alike. Bilateralism was the only mode of cooperation until the foundation of the GATT in 1947 (Bairoch 1989; Brown 2003; Irwin 1993b; Kindleberger 1989). Moreover, the notion of the “multilateral GATT” conceals that the countries exchanged concessions bilaterally in trade bargaining in the first five GATT rounds (Curzon 1965; Finlayson and Zacher 1981; Kock 1969). It was only in the Kennedy Round that multilateral cooperation within the GATT was introduced (Evans 1971; Preeg 1970). However, even during and after the Kennedy Round, the bilateral exchange of concessions remained a central pillar in the trade rounds held under the umbrella of the GATT and the WTO (Croome 1999; Winham 1986; Winters 1990). This holds for tariffs on manufactured goods, which were at the heart of trade liberalization in the early stage of the GATT, for non-tariff barriers to trade, e.g., government procurement (Reich 1999), and for other issue areas, e.g., trade in services (Mattoo 2000). An additional point emphasizing the prevalence of bilateralism is the fact that almost all of the regional agreements that are notified at the WTO are bilateral (WTO 2003a).

There apparently exists a substantial gap between the perception of bilateralism in academia, in the media, and among policymakers on the one hand, and its significance and function in international trade relations on the other hand. This gap forms the basis for my thesis. My prime goal is to elucidate the role of bilateralism and multilateralism in the practice of international trade. What are the features that make bilateralism an attractive form of cooperation for policy-makers? As I have mentioned above, bilateral cooperation coincided with periods of liberalization and with periods of protectionism. The interesting question that follows from this observation is, how and when does bilateralism promote freer trade? Although

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2 Keohane (1982, 334) points out that the form of the regime is independent of the form of the agreements that are struck within the regime.
bilateralism has been more common in international trade cooperation than is often believed, trade bargaining in the GATT and WTO has actually had a multilateral component since the Kennedy Round of the 1960s. The question that suggests itself then is, *when is bilateral cooperation preferred over multilateralism, and vice versa?* Findings to these questions will not only foster the understanding of the choice between bilateralism and multilateralism within the GATT and WTO. It will also help to explain why there is a steady trend toward bilateral cooperation outside of the world trade regime in the form of preferential trade agreements (cf., Baldwin 2006b; Mansfield and Milner 1999). It is most reasonable to assume that the development of regional cooperation is closely related to the development of the WTO, and vice versa (cf., Freund 2000; Mansfield and Reinhardt 2003). The understanding of regional cooperation will be promoted by a better understanding of institutional choice in the GATT and WTO, a topic that has been largely neglected in the theoretical literature on the world trade regime.3

One reason why the centrality of bilateralism in international trade cooperation may have gone unnoticed is *unconditional most-favored-nation (MFN) treatment*. In simple terms, MFN treatment requires non-discrimination between importers. More technically put, an MFN provision requires a country to grant the country entitled to MFN treatment the most favorable terms granted to any other country, without expecting any concession in return (Jackson 1997, 157). An MFN clause is effectively multilateral when a country confers MFN treatment on at least two countries (Schwartz and Sykes 1997).

The operation of the MFN principle seems to prompt many scholars to conceive of bilateral treaties involving MFN treatment as equivalent to multilateral cooperation (e.g., Brown 2003). If this view on bilateral trade cooperation under MFN treatment were correct, there would not be much value in examining the role of bilateralism in those cases where it was combined with an MFN provision. Cooperation would simply be multilateral and the number of contracting parties would not matter at all. The historical record that I sketched out above casts serious doubt on this perspective. If multilateralism is perfectly similar to bilateral cooperation under MFN treatment, why do countries frequently apply this form of cooperation? There must be a

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3 Treatments of the GATT and the WTO describe the development of the form of cooperation, but fail to address it systematically and rigorously (cf., Barton et al. 2006; Hoekman and Kostecki 2001; Trebilcock and Howse 1999).
1. Introduction

difference between bilateral cooperation including MFN treatment on the one hand, and truly multilateral cooperation on the other hand that the existing literature fails to account for. Explaining the adherence to the MFN principle in international trade relations is the second issue of major interest in my thesis. In combination with my analysis of bilateralism and multilateralism, I will answer the question, when do countries adhere to MFN treatment and when do they prefer to pursue a discriminatory trade policy instead?

An analysis of MFN treatment from a political science perspective exposes a considerable gap in the international policy economy literature. Although the MFN principle has a long tradition and is a central pillar in international trade relations (Barton et al. 2006; Hornbeck 1910), there is virtually no political science study that thoroughly explains and examines the presence and absence of MFN treatment.4 Pahre (2001b, 2007) and McKeown (1982) contend that countries choose MFN treatment if they aim to avoid the strained relations with trade partners that would occur under discriminatory trade. They fail to explain, however, what the underlying sources of political stress are and do not deliver a systematic empirical analysis of variation in the conferral of MFN treatment. Since I develop an explanation of the presence and absence of MFN treatment that is rigorously tested empirically, I make a unique contribution toward the understanding of non-discriminatory treatment in international trade.

On a general level, the analysis of the form of trade cooperation asks for the institutional design on the basis of which countries exchange concessions. As I have just explained, one point of confusion in the existing literature is the relation between bilateralism, multilateralism, and MFN treatment. Another serious shortcoming is the almost complete neglect of the importance of the bargaining approach. It is important to consider the applied bargaining approach because the form of cooperation only captures the number of countries that receive a concession. The bargaining approach determines the number of items to which a concession applies. The two basic forms a bargaining approach can take are the item-by-item approach and the formula approach (Trebilcock and Howse 1999, 116-119). In item-by-item bargaining, a country is able to make different concessions on different items. For example, the tariff on bicycles

4 The picture is not much better in economics. Almost all studies dealing with MFN treatment investigate its welfare effects (Horn and Mavroidis 2001). The positive analysis of MFN treatment is the exception (cf., Caplin and Krishna 1988; Ludema 1990; Schwartz and Sykes 1996).
may be reduced by 15 percent, while the duty on tricycles may be cut by 20 percent. When a formula is applied, the tariffs on bicycles and tricycles are reduced by the same rate, e.g., 16 percent.\footnote{This example refers to a linear formula. Later in my thesis, I will distinguish between linear and harmonizing formulas.}

It is important to note that choice between different bargaining approaches and forms of cooperation are formally independent of each other (Curzon 1965). It is possible to combine bilateral and multilateral cooperation with the item-by-item mode and the formula approach. For example, multilateral item-by-item negotiations would mean that all countries reduce their tariffs on bicycles by 15 percent and the duties on tricycles by 20 percent. Under the bilateral formula approach, there would be only two countries that reduce their tariffs on all commodities by 18 percent.

The centrality of the bargaining approach for the exchange of concessions becomes apparent when one considers that there are hundreds or thousands of different items on which countries charge different duties. Substitutable commodities are generally classified as different items, meaning that they receive different tariffs. The distinction of thousands of items gives importing countries the opportunity to discriminate between importers by discriminating between items. The scope for discrimination by item is maximum under an item-by-item approach and non-existent when a formula approach is applied. For these reasons, a comprehensive understanding of the exchange of concessions in international trade, which is explicitly or implicitly at the heart of any research on this topic, cannot afford to neglect the applied bargaining approach.

Surprisingly, the empirical relevance of the bargaining approach is not reflected in the international political economy literature. There is no theoretical work explaining the decision between different types of bargaining approaches. Since I aim to take a holistic perspective on the exchange of concessions, I will seek an answer to the question, \textit{what are the driving forces behind the choice of bargaining approaches in international trade?} Given that the bargaining approach is a non-issue in the existing research, my thesis makes a unique contribution to the literature on the institutional design of international trade cooperation.

Bilateralism and multilateralism represent a central dimension not only in international trade cooperation, but also in international cooperation in general (Caporaso 1993; Koremenos et al. 2004). As for the literature on commercial
relations, this dimension is largely neglected in current research on international cooperation (Rixen and Rohlfing 2007). Throughout the last two decades, there was increasing interest in multilateralism (e.g., Keohane 1990; Ruggie 1993), but very little research compares bilateral and multilateral cooperation systematically (cf., Gilligan 2004; Pahre 1994). The literature on cooperation under anarchy and international regimes often implicitly deals with the question of whether countries cooperate bilaterally or multilaterally (cf., Krasner 1983; Oye 1986), but there are only few explicit hypotheses on this topic that, moreover, are contradictory (Rohlfing 2007). The same holds for studies dealing with distributive bargaining in international relations (cf., Fearon 1998; Koremenos et al. 2004; Sebenius 1983).

My thesis aims to remedy this shortcoming by generalizing the insights I will gain from the analysis of international commercial cooperation. International trade cooperation is particularly suitable for the generalization of causal propositions. As I will show in my thesis, distribution and enforcement are two variables that are essential to understand state behavior in commercial cooperation (Bagwell and Staiger 2005b; Gawande and Li 2006; Pahre 1994). These two variables are also implicitly or explicitly conceived of as key variables driving institutional choice in international cooperation (Fearon 1998; Koremenos et al. 2004), so there is substantial theoretical overlap that allows for the cautious generalization of my findings.

In particular, I will focus on how the interaction of distribution and enforcement shapes institutional choice in international trade. It is generally acknowledged in the literature on international cooperation that the interaction of the variables is important (Fearon 1998; Koremenos et al. 2004; Morrow 1994). However, little is known about their interaction, because almost all studies focus either on distribution or enforcement (Rohlfing 2007). Because of my focus on the interplay between these two variables, my thesis makes an important contribution to the understanding of international cooperation in general.

The Theoretical Framework
I will seek answers to my research questions by conducting a theory-driven qualitative analysis. I will develop a political-economy explanation of institutional choice on the basis of the theory of domestic political support that is frequently applied in the field of international political economy (Frieden and Martin 2002). The theory has hitherto been applied to tariff-setting and treaty-making (e.g., Hillman 1982; Hillman et al.
1995; Pahre 2007). My study increases the leverage of the theory by applying it to an entirely new topic, namely, the choice between different forms of cooperation and bargaining approaches. The extension of the theory of domestic political support to a new issue area represents a valuable contribution to the cumulative production of knowledge derived from rational choice explanations in the field of international political economy.

Political and economic actors are the key components of my domestic-politics explanation of institutional choice. I distinguish four types of economic actors that seek the trade policy that maximizes their respective income. Consumers demand unilateral liberalization in order to decrease consumer prices. This trade-policy preference is shared with import-users, i.e., producers that require low-cost imports for production. Import-competers produce goods that compete with imported goods in the domestic market and push for protectionism so as to keep competitive pressure low. Exporters seeks domestic liberalization, conditional on foreign liberalization, in order get enhanced access to markets abroad (Bailey et al. 1997; Milner and Yoffie 1989). This four-fold distinction goes beyond most of the existing studies (Baldwin 1996; Nelson 1988). My thesis will demonstrate that my distinction shows much potential. It can explain trade-policy decisions that one can hardly make sense of by distinguishing only between import-competers and exporters or between producers and consumers.

In the static perspective, the assumption is that economic actors provide support for political actors in order to get their most-preferred trade policy implemented. In the dynamic view, the support of economic actors is expected to be positively correlated with the effect of the national trade policy on the own income. Economic actors reduce their support for political actors when their income decreases and increase support if the income declines.

Political actors are conceptualized as office-seekers who want to remain or get into government. Political actors care about the changes in the income of economic actors because their support it is an important resource for office-seeking. Political actors do not want to worsen their prospects for public office, so they try to implement a trade policy that has a neutral or even positive net effect on support. Political actors face substantial problems in the pursuit of this goal because three of the four types of economic actors seek contradictory trade policies. Whatever trade policy is pursued, it will always prompt at least one group to decrease its support.
Consequently, political actors are concerned about the *domestic distributional effects* of their trade policy. One implication that directly follows from this insight is that the pursuit of *reciprocity* should be the rule in international trade cooperation and unilateralism the exception (Hillman et al. 1995). The reason for this is that the interest constellation among the domestic economic actors rarely allows political actors to liberalize trade unilaterally so that reciprocity remains the only feasible course of action.

It should be emphasized at this point that my model of institutional choice does not rely on the assumption that political actors choose the trade policy that *maximizes* domestic political support. One frequently finds this argument in political-economy applications explaining trade-policy making (e.g., Pahre 2007). My explanatory account remains silent on the underlying determinants of the pursued trade policy. I just assume that political actors are concerned about domestic distribution and aim to avoid a negative effect of trade-policy making on support, whatever trade policy they pursue for whatever reasons.6 The independence of my model of institutional choice from a specific theoretical approach toward trade-policy making makes it broadly applicable to international commercial cooperation.

My key argument is that political actors use the form of cooperation and the bargaining approach to achieve their domestic distributional goals. Political actors choose bilateralism as a means to fine-tune the requests and offers that are made in trade bargaining. The rationale for this conjecture is that bargaining is *country-sensitive*, meaning that the bargaining behavior of a country depends on which country it meets in trade negotiations. Country-sensitivity is an issue in trade bargaining because the domestic effects of a concession hinge on relevant characteristics that vary from country to country, e.g., tariff levels and price elasticity (cf., Bagwell and Staiger 2002; Pahre 2007). Countries prefer bilateralism to multilateralism in order to adjust their bargaining behavior to the specific characteristics of the bargaining partner.

Concerns about distribution prompt political actors to prefer bilateralism to multilateralism. At the same time, concerns about distribution create *enforcement problems*, which undermine the pursuit of distributional goals and drive up the transaction costs of trade cooperation (cf., Dixit 1996). *Clustering* is one instrument

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6 In this respect, my model of institutional choice relaxes the assumption of the theory of domestic political support that politicians aim to maximize support.
that can be used to address enforcement problems (cf., Pahre 2001), which means holding formally separate bilateral negotiations simultaneously. The simultaneous character of the negotiations gives countries the opportunity to assess the overall impact of all bilateral bargains on the pursuit of one’s own distributional goals. This means that clustering does not eliminate the enforcement problem, but only helps to keep tighter control over its effects on the pursuit of distributional goals. Because of this, simultaneous negotiations are only a suitable means in arrangements involving a small number of states. When a large number of countries is involved, it remains burdensome to pursue distributional concerns in bilateral bargaining.

Multilateral cooperation effectively abandons the enforcement problem of bilateral cooperation because all countries make the same concession (cf., Ethier 2001; Schwartz and Sykes 1996). However, countries are required to sacrifice concerns about distribution because it becomes impossible to fine-tune concession-making. My hypothesis is that countries cooperate multilaterally when concerns about enforcement prevail over concerns about distribution.

The trade-off inherent to the pursuit of concerns about distribution and enforcement derives from the interaction effect of these two variables. Distributional concerns and worries about the enforcement problems generate diametrically opposed incentives for institutional choice. The former demands bilateralism, whereas the latter calls for multilateralism. In effect, the interaction between the two variables creates a dilemma in institutional choice. There is no form of cooperation that fully satisfies concerns about distribution and enforcement at the same time. A mixed form of cooperation that includes elements of bilateralism and multilateralism comes closest to accommodating distributional goals and concerns about enforcement (Keohane 1986). However, even a mixed form will fail to meet the demands of all involved countries, so a dilemma of institutional choice is expected to be always present.

A similar rationale underlies the choice of the bargaining approach. The choice of bargaining approach is assumed to be driven by item-sensitivity, which is equivalent to the notion of country-sensitivity I introduced above. The effect of a concession on domestic support depends on the item in question because of properties that vary from item to item, e.g., tariff level and covered trade volume. Consequently, concerns about distribution lead to the choice of an item-by-item approach. The problem with this approach is that the tariff schedule of a country contains hundreds
or thousands of different items, each of which needs a separate bargain. It follows that item-by-item bargaining creates high transaction costs.

A formula approach potentially reduces the transaction costs because countries do only have to bargain about a single formula. I hypothesize that a formula approach is chosen when concerns about transaction costs supersede concerns about distribution. However, the goal of diminishing transaction costs comes at the expense of the pursuit of distributional objectives, because there is no opportunity to engage in item-sensitive concession-making. Therefore, countries also confront a dilemma in the choice of the bargaining approach that can only be partially ameliorated by the application of a mixed approach that combines the formula with the item-by-item mode. Since institutional choice is driven by similar factors, I assume that the choice between different forms of cooperation and bargaining approaches is strongly correlated.

With respect to MFN treatment, I have already indicated above that cooperation in the absence of the MFN principle is plagued by an enforcement problem. In the dynamic view, this enforcement problem requires countries to constantly renegotiate their existing agreements so as to avoid adverse domestic distributional effects (Schwartz and Sykes 1996). The more bilateral agreements are in place, the higher are the transaction costs of discriminatory trade. Alternatively, the countries suffering from the enforcement problem may increase their barriers to trade unilaterally (Hornbeck 1910). The unilateral adaptation to foreign treaty-making restores a favorable domestic distributional balance at home, but disturbs the pursuit of distributional goals of foreign political actors. Importers suddenly experience worse market access, which may in turn trigger foreign unilateral action by raising barriers to trade. This interplay between unilateral increases of trade barriers may result in a retaliatory spiral and a tariff war (cf., Conybeare 1987), implying that trade liberalization is difficult to achieve under discriminatory trade.

MFN treatment is a solution to these problems. The contracting countries have to generalize the concessions they exchange in a trade treaty, so there is no need for renegotiations or unilateral adaptation. However, adherence to the MFN principle by the contracting parties introduces publicness into trade cooperation, since concessions

7 In the nineteenth century, tariff schedules covered several hundreds of different items (Bairoch 1989). Because of the increasing diversification of production, a tariff schedule nowadays contains thousands of items.
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are granted unconditionally (Schwartz and Sykes 1997). This effect of MFN treatment now renders it difficult for the contracting countries to achieve their domestic distributional goals, simply because publicness also gives rise to an enforcement problem that derives from the opportunity to free-ride (cf., Axelrod and Keohane 1985; Oye 1985; Pahre 2001).

This discussion shows that the interaction of distribution and enforcement creates a dilemma of institutional choice in the case of MFN treatment as well. Concerns about distribution mandate a discriminatory trade policy. Yet, discrimination creates enforcement problems that undermine the pursuit of distributional goals in the long run. This problem can be resolved through the MFN principle, but only at the expense of publicness, which interferes with the pursuit of domestic distributional goals by the countries that grant MFN treatment.

I contend that the political actors’ response to this dilemma depends on which trade policy they seek. Protectionist political actors do not apply MFN treatment. The rationale for this hypothesis is that the mandatory generalization of concessions makes the pursuit of a protectionist trade policy highly problematic. On the other hand, liberal-minded political actors need to grant MFN treatment in order to avoid retaliatory spirals that run counter to the goal of trade liberalization. Retaliatory spirals also have negative effects on the income of those economic actors whose support political actors’ need for trade liberalization. MFN treatment is necessary to receive sufficient societal support to compensate for the loss of support by import-competers that ensues from liberal trade.

MFN treatment, clustering, and multilateral cooperation are all instruments that diminish the enforcement problems of bilateral cooperation. The sequence in which these instruments are employed depends on the pursued trade policy in interaction with the number of the involved countries. Protectionist countries never grant MFN treatment because of its fundamental incompatibility with protectionism. If protectionist countries aim to address the enforcement problem, they cluster negotiations in small-n settings and cooperate multilaterally in large-n scenarios. Since protectionist states generally cooperate little (Mansfield et al. 2002), it is unlikely that the incentives for multilateral cooperation will outweigh concerns about distribution enough to make it a feasible option. On the other hand, liberal political actors first apply MFN treatment. Bilateral cooperation including MFN treatment provides more scope for the pursuit of distributional goals than does clustering and
multilateral cooperation under which one becomes formally dependent on the consent of other countries.

**Research Design and Methodological Approach**

The hypotheses are tested empirically by a qualitative within-case analysis of seven cases of institutional choice. I prefer a qualitative analysis to a quantitative analysis for two reasons. First, there are numerous large-n studies indicating that domestic distributional concerns figure prominently in trade-policy making (e.g., Gawande and Hoekman 2006; Gawande and Li 2006; Pahre 2007; Thede 2005). What is lacking hitherto is a thorough qualitative analysis examining whether the observed *causal effects*, which are often compatible with different theoretical accounts, can be attributed indeed to *causal mechanisms* corroborating the assumption that domestic distribution matters (cf., Dai 2006; Marks and McArthur 1993; Pahre 2007). Second, the key variables of my approach, e.g., concerns about distribution and enforcement, can hardly be measured quantitatively. On the other hand, one core feature of qualitative analysis is the precise measurement of variables (King et al. 1994, 44-45), rendering this approach advantageous for my purposes.

Following the logic of two-level analysis (Evans et al. 1993; Putnam 1988), I will examine for each case the domestic political processes that shaped the county’s institutional choice in combination with the international bargaining in which the country was involved. A combined analysis of the domestic and international processes will enable me to discern how the interaction between developments and events of the domestic level and the international level shaped institutional choice (cf., Frieden and Martin 2002; Frieden and Rogowski 1996).

The cases that I examine in my thesis represent seven of the most important events in the history of trade that often influenced the future institutional development of world trade. Thus, my thesis will not only promote the theoretical understanding of institutional choice, but will also contribute to a better empirical-historical understanding of the *institutional history* of trade cooperation. The seven cases that I chose for analysis represent all forms of cooperation and bargaining approaches and cover more than 130 years of trade cooperation. I explicitly decide for a long period of investigation in order to test for the breadth of model and its applicability in very different contexts (Gerring 2006, 97-101).
1. Introduction

The in-depth analysis of the driving forces behind institutional choice requires selecting particular countries. I select France as the unit of analysis in the nineteenth century and the United States for the interwar period and the time after World War II.\footnote{The division of the history of trade in these three periods – nineteenth century, interwar period, post-war period – is common in the literature (e.g., Brown 2003; Irwin 1993b; Rogowski 1989).} France and the United States exhibit properties in several important dimensions that make them particularly useful for my empirical analysis and the generalization of my findings. The analysis of several institutional choices of one country within a certain period of time will highlight how one decision was influenced by a previous choice.

In the nineteenth century, I focus on the \textit{Anglo-French treaty of commerce} of 1860, the so-called \textit{Cobden-Chevalier treaty}, as a case of bilateralism in combination with MFN treatment (MFN bilateralism). The second case for analysis is the \textit{Méline double-tariff schedule} of 1892 as a manifestation of multilateralism that was occasionally supplemented with MFN bilateralism.\footnote{I will explain in section 3.2 that a dual-tier system is conceptually similar to multilateralism.} These two cases can be considered exemplary for the development of Europe in the second half of the nineteenth century. The Anglo-French treaty is the cornerstone of a network of bilateral MFN agreements that liberalized European trade until the 1880s (Lazer 1999; Marsh 1999). Alongside with a prolonged recession that had already begun in the 1870s, many countries invented double-tariff schedules similar to that adopted by France in 1892 (Bairoch 1989; Conybeare 2002).

In the interwar period, I will analyze the U.S. \textit{Fordney-McCumber Act} of 1922. In the course of implementing the Fordney-McCumber bill, the United States adopted MFN bilateralism as the form of cooperation. The interesting features of the Fordney-McCumber Act are that it was protectionist and that tariff levels were fixed. These two elements of the bill seem to contradict my model, since I assume that MFN treatment is combined with a liberal trade policy and bargaining about tariff levels. These two features of the Fordney-McCumber Act make it valuable for in-depth analysis. The second case falling in the interwar period is the \textit{Reciprocal Trade Agreements Act} of 1934. The United States chose MFN bilateralism as the form of cooperation, whereas it was far from clear until 1935 whether MFN treatment would become an element of U.S. trade policy (Tasca 1938). The Reciprocal Trade Agreements Act was, in contrast to the Fordney-McCumber bill, liberal in intent and made tariff levels subject to bargaining, i.e., they were not fixed.
The analysis of the period after World War II begins with the negotiations between the United States and Great Britain on the mode of exchanging concessions in the GATT. The two countries agreed to cluster bilateral negotiations including MFN treatment, which became the GATT bargaining mode for the first five GATT rounds. This case enables me to test my hypothesis on the decision between simultaneous and sequential MFN bilateralism, which was the form of cooperation of the United States since 1934.

The second case of the period after 1945 is the Kennedy Round, lasting from 1963 to 1967. The analysis of this case involves an examination of the domestic political process culminating in the U.S. Trade Expansion Act of 1962 and the actual negotiations at the GATT round. The Kennedy Round yields comprehensive empirical evidence on a variety of bargaining approaches and forms of cooperation. The reason is that this round marks the first instance of multilateral negotiations and the application of a formula approach in the field of manufactured goods. In effect, a mixed form of cooperation and a mixed bargaining approach was later applied in the negotiations on manufactured goods, making this case particularly valuable for in-depth analysis.

The seventh case covers bargaining on the Government Procurement Agreement at the Uruguay Round (1986-1994) and the subsequent negotiations on liberalization of public procurement in the WTO. This case study extends my analysis to cooperation on the reduction of non-tariff barriers to trade. My analysis takes the two-level character of institutional choice into account by examining the process leading to the U.S. Omnibus Trade and Competitiveness Act of 1988, which provided the basis for the participation of the United States at the Uruguay Round, and the negotiations on liberalization in government procurement. This case is highly suitable for analysis because it delivers evidence on bilateral and multilateral cooperation with and without MFN treatment.

Process tracing is the instrument of causal inference that I use in my empirical analysis (cf., George and Bennett 2005; Hall 2006). In particular, process tracing serves two purposes. First, I select my cases on the dependent variable, i.e., because I know that a particular institutional choice was made. As I mentioned above, my key independent variables are difficult to measure in advance of the empirical analysis. Process tracing allows me to assess whether my hypothesized independent variables were present at all in the case under scrutiny. The fact that I do not know the scores on
1. Introduction

the independent variables prior to my empirical analysis biases the test against the confirmation of my model (cf., George and Bennett 2005, chap. 9). Second, process tracing gives me the opportunity to assess which variables shaped the institutional choice and how they did so. The focus on causal mechanisms enables me to engage in comparative theory-testing by comparing the explanatory of my model in relation to rival explanations that I discuss later in my thesis (cf., Hall 2006).

I have mentioned above that my empirical analysis will comprise seven case studies. Each case study is a building block that tests specific hypotheses derived from my approach. The overall explanatory power of my model is assessed by putting the blocks together at the end of my study (cf., George and Bennett 2005, 76-78). Since neither of the cases displays variance on the dependent variable, I will make causal inference in seven no-variance designs. King, Keohane, and Verba argue that one cannot make any causal inference in no-variance designs simply because it is impossible to observe covariation (1994, 128). Proponents of case study researchers responded that process tracing solves the no-variance problem of case study research (Bennett and Elman 2006b; George and Bennett 2005; Hall 2006). I will demonstrate that process tracing does not eliminate the no-variance problem, but merely transfers it from the cross-case level to the within-case level. I will propose within-case variance analysis as a modification of ordinary within-case analysis in order to enhance the basis for causal inference. Thereby, my thesis contributes to the advancement of qualitative research in international relations research and political science in general.

Findings and Implications
My empirical analysis largely corroborates my key hypotheses. Political actors choose bilateralism and item-by-item negotiations as a means to manage the domestic distributional effects of trade cooperation. In the light of these findings, the conventional perspective on bilateralism appears to be overly pessimistic because it may perform an important function in the liberalization of trade. However, the pessimistic view is not entirely mistaken because discriminatory trade does indeed carry a high potential for initiating a retaliatory spiral. It can be shown that countries respond to this enforcement problem as I expected by my model. Protectionist countries accept the risk of launching a retaliatory spiral and refrain from introducing MFN provisions, while countries that aim to liberalize trade resort to MFN treatment.
In this view, MFN provisions are not applied because of a commitment to the idea of non-discrimination, but because it is to the material benefit of the country applying MFN treatment.

It can be further observed that countries leaning toward liberalization first try to solve the problems inherent to discriminatory trade by granting MFN treatment. As hypothesized, the response of the country to publicness appears to be contingent on the number of the countries entitled to MFN treatment. Countries cluster their bilateral negotiations if the number of trading partners is relatively small. On the basis of my case studies, 15 to 20 countries would still count as small. A joint perspective on clustering and MFN treatment further corroborates my hypotheses about the sequence in which countries make specific institutional choices. Liberal countries prefer MFN treatment to clustering, whereas protectionist countries eschew MFN treatment and exclusively decide for simultaneous negotiations as a means to address the problems deriving from discriminatory trade.

The analysis supports the conjecture that multilateralism is chosen instead of sequential negotiations if clustering is infeasible because of a large number of involved countries. My empirical findings exemplify that multilateralism eliminates any enforcement problem at the expense of the ability to achieve distributinal goals. This observation delivers strong support in favor of my argument that institutional choice is marked by a dilemma. There is no single form of cooperation that fully accommodates concerns about distribution and enforcement at the same time.

The same conclusion holds for the choice of the bargaining approach. There is strong evidence supporting my hypotheses on the choice between an item-by-item and a formula approach. All seven case studies suggest that countries select item-by-item bargaining in order to fine-tune concession-making and to keep tight control over the domestic effects of trade cooperation. In addition, I find empirical support for my conjecture that a formula approach is chosen so as to reduce the transaction costs that arise from item-by-item negotiations. It can be observed that a formula approach is too inflexible to allow for the pursuit of distributional goals, underlining my argument that the choice of bargaining approach is marked by a dilemma of accommodating concerns about distribution and transaction costs. In sum, I conclude that the seven cases of institutional choice largely corroborate my model of institutional choice.

These findings have broad theoretical and empirical implications. First of all, my arguments can be generalized to international cooperation in general. It can be
assumed that country-sensitivity is widespread in international relations so that concerns about distribution should generally bias institutional choice toward bilateralism. Cursory evidence from other policy fields, e.g., international double taxation (Rixen and Rohlfing 2007) and investment (Egger et al. 2007; Elkins et al. 2004), shows that this conjecture seems to be warranted. Moreover, it can be assumed that bilateral cooperation generally creates enforcement problems in the form of externalities that create incentives for multilateralism (cf., Pahre 1994). Therefore, I expect that the dilemma of institutional choice between bilateralism and multilateralism should also be apparent in other issue areas.

In the light of my empirical evidence, research on international trade relations appears to be too pessimistic about the effects of bilateral cooperation. It seems that the insights derived from the study of the Great Depression, which is undoubtedly an example of the downside of bilateralism, are overgeneralized (cf., Collier and Mahoney 1996). This overgeneralization conceals the fact that bilateralism may perform, and actually has performed, an important role in promoting trade cooperation in the past. It would be grossly misleading to conceive of bilateral cooperation as nothing more than an instrument for protectionism.

On the other hand, the substantial problems of achieving agreement in the current Doha Round, and in the past Tokyo Round and Uruguay Round as well, highlight that multilateral procedures and MFN treatment are not sufficient for liberalization (Fontagne et al. 2005; Winters 1990). The problems of achieving accord are also apparent in the fact that many countries choose not to become parties to issue-specific agreements, like the agreement on government procurement (VanGrasstek and Sauvé 2006). These developments seem to indicate that a strong reliance on multilateralism and MFN treatment is an inappropriate way to deal with the contemporary problems in the world trade regime.

**Going Small Again? A New Bargaining Design for the WTO**

The literature particularly identifies three issues that hinder progress: the large number of WTO members, the expansion of the negotiations to domestically salient issues like agriculture, and the increased bargaining power of the developing countries (Baldwin 2006a; Collier 2006; Lawrence 2006). In this view, the success of the world trade regime, in terms of expanded membership and issue coverage, now becomes its major
1. Introduction

drawback with respect to achieving further cooperation on the basis of the current bargaining design.

My model and empirical results suggest an institutional reform of trade bargaining in the WTO that may diminish these problems. Bilateral cooperation without MFN treatment in combination with item-by-item bargaining would limit the scope of concessions tremendously in relation to multilateral procedures and MFN treatment. The return to bilateral negotiations would allow countries to fine-tune concession-making and render trade liberalization feasible at the domestic level. Moreover, gradual liberalization provides better opportunities for stepwise domestic economic adjustment. My proposal of bilateral negotiations runs counter to the literature that declares bilateralism deficient from a welfare point of view. However, the point is not what the theoretical optimum is, but what is feasible in practice.

My study points to additional institutional devices that should complement bilateral negotiations in order to remedy its undoubtedly existing shortcomings. First of all, it is necessary to hold bilateral negotiations simultaneously, as a safeguard against the enforcement problem inherent to discriminatory trade. As my thesis shows, clustered negotiations do not solve the enforcement problem, but they enable countries to assess the net implications of all bargains. It is true that the transaction costs of clustered bilateralism will be high. The experiences at the last trade rounds suggest, however, that the transaction costs are not smaller under multilateral procedures and MFN treatment simply because of the saliency of distributional goals. Given that concerns about distribution figure prominently anyway, it seems straightforward to apply the form of cooperation that allows their pursuit best. In addition, a change of mind appears to be necessary, acknowledging that liberalization is a gradual and time-consuming process.

Bargaining targets, e.g., an average tariff cut to be achieved at a certain round, and minimum concessions to be made on particular items would jointly promote some advancement in trade cooperation. The requirement of minimum concessions would ensure that political actors could not avoid making concessions in issues that are heavily defended by domestic interest groups. The specification of an opening date for new trade talks at the end of the current trade round would put trade cooperation in the WTO on a more regular schedule. Furthermore, this procedure would substantially reduce a country’s uncertainty about the next opportunity to achieve some bargaining goals that may have not been attained at the current negotiations.
Bilateralism is generally infeasible in rule-setting (McGuire 1999). With respect to rule-setting, I suggest following a *club-of-clubs approach* (Lawrence 2006). The general club that integrates all other clubs would be the WTO. Countries would not be obliged to become members of these clubs, each of which deals with a different issue. The negotiations on rules should be inclusive, i.e., all interested countries should participate in the bargain. Inclusive bargaining should prevent the club members from agreeing on rules that create a *focal point* for future negotiations that is too distant from the preferences of the non-members (cf., Schelling 1960). Such a development occurred in the field of government procurement, having the consequence that many non-parties to the government procurement agreement are now more reluctant than before to join it.

Club members should be able to discriminate between members and non-members of the club when discrimination in the application of rules is possible, as is the case for government procurement. This prevents free-riding by non-members and creates an incentive to subscribe to the agreement. When free-riding is inevitable because of the nature of the issue in question, club members should be allowed to withdraw concessions previously granted to non-members in another issue area. Cross-sectoral linkage gives those countries that adhere to the multilateral rules the opportunity to achieve their distributional goals in the presence of free-riding (cf., Barkin 2004).

The introduction of bilateral cooperation in the WTO may also be an effective means against the spread of regional cooperation (cf., Baldwin 2006b; Mansfield and Milner 1999). A look at the regional agreements notified at the WTO (2003a) shows that almost all preferential treaties are bilateral, which underscores the centrality of bilateralism in trade cooperation. The downside of regional cooperation outside of the multilateral framework is that it is sequential. As my study shows, sequential bilateralism creates enforcement problems with uncertain effects on future trade cooperation. In addition, regional cooperation is relatively unregulated. The General Agreement allows contracting parties to create a free trade area. There is, however, no specification of the deadline by which free trade must be in place. This lack of regulation gives countries the opportunity to postpone the creation of free trade between them and to use their regional agreement for protection against non-members (Bhagwati and Panagariya 1996). Moreover, it is evident that bilateral regional cooperation cannot be the path toward multilateral rule-setting. A reform of the
bargaining design of the WTO may diminish the incentives to engage in regional cooperation. There is evidence that regionalism was and still is a response to the problems of achieving accord in the GATT and WTO (e.g., Dornbusch 1993; Mansfield and Reinhardt 2003). If trade bargaining in the WTO could be put back on track again, the incentive to conclude regional agreements may be reduced.

Plan of the Thesis
In chapter 2, I develop my non-formal model of institutional choice. I will begin by conceptualizing and clarifying the dependent variable. I will show that one must distinguish between the form of cooperation and the bargaining approach in order to fully understand the exchange of concessions in international trade. Section 2.2 will discuss explanations of domestic trade-policy making that focus on the role of economic and political actors. I will argue that the theory of domestic political support is a reasonable starting point for my model and discuss its key assumptions on the preferences and strategies of economic and political actors. In section 2.3, I will detail the political-economy of unilateral and reciprocal action in international trade. It will be shown that unilateralism is not impossible in a political-economy framework, but it is the exception and reciprocity the rule. I will elaborate my hypotheses on institutional choice in section 2.4. I will begin with a treatment of the decision between bilateralism and multilateralism and proceed with developing my conjectures on MFN treatment. Afterward, I show how distribution and enforcement interact in international trade cooperation and create a dilemma of institutional choice. The theoretical treatment of the choice of bargaining approaches concludes this section.

Section 2.5 comprises the discussion of five variables that are commonly identified as influential for trade-policy making in the literature. The regime type, the domestic institutional configuration, and the “left-wing” or “right-wing” ideology of political actors are three domestic-level variables. The relative size of a country and asymmetry between negotiating countries are two variables that are important at the international level. I will assess how far the key arguments of my model are conditional on the intervening effects of these variables. In section 2.6, I will turn to five competing explanations. Four rival approaches treat concerns about external security, tariff revenue, efficiency, and the balance of payments as determinants of institutional choice. The fifth competing explanation focuses on ideas, as opposed to material interests, as a rival independent variable. For each competing explanation, I
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will assess whether it yields similar or competing hypotheses on the pursuit of reciprocity, which is the cornerstone of my model. This will allow me to assess their comparative explanatory power in my empirical analysis (cf., Hall 2006).

Chapter 3 covers the discussion of my research design and methodological approach. In the first section of this chapter, I will explain why a qualitative within-case analysis in the form of process tracing is more suitable for the empirical examination of my hypotheses than a quantitative analysis. In section 3.2, I will explain my decision in favor of a broad period of investigation and detail the substantive side of my case selection strategy. Section 3.3 will cover the discussion of the methodological aspect of case selection and will explain how within-case variance analysis solves the no-variance problem in case study research.

Chapters 4 through 6 are the empirical parts of the thesis. Each case of institutional choice is contextualized by a discussion of the events that led to the institutional choice under scrutiny. The empirical analysis of each case is followed by a section comparing the gathered evidence with my theoretical expectations. Moreover, the empirical chapters are concluded by a section that draws together the findings of all case studies included in the chapter. In chapter 4, I will examine the Anglo-French agreement of 1860 and the Méline tariff of 1892. Chapter 5 analyses the Fordney-McCumber Act of 1922 and the Reciprocal Trade Agreements Act of 1934. Chapter 6 covers the empirical examination of the negotiations on trade bargaining in the GATT, the Kennedy Round of the 1960s, and the negotiations on government procurement at the Uruguay Round.

Chapter 7 draws together the findings of my analysis and details the theoretical implications. I review the empirical evidence in light of my hypotheses on institutional choice in section 7.1. The following section generalizes my insights to international cooperation in general. In the last section of my thesis, I propose a design for trade negotiations in the WTO that may promote agreement more than the currently existing procedures do.
2. A Model of Institutional Choice

In this chapter, I develop my model of institutional choice in international trade cooperation. It is necessary to clarify at the outset how my model is related to the actual trade policy a country pursues, the purpose of trade cooperation, and different explanations of trade-policy making and trade cooperation. With respect to the first issue, it should be pointed out that it is not my goal to explain what trade policy a particular country adopts at a certain point in time. I treat the trade policy as exogenous and as an issue that matters only inasmuch as it shapes institutional choice. Furthermore, the purpose of trade cooperation is irrelevant for my model, meaning that it can be commercial cooperation that is liberal and protectionist in intent. Finally, it should be emphasized that my political-economy account of institutional choice is not only compatible with political-economy explanations of trade-policy making, but can be combined with any approach toward the making of commercial policy. This makes my model broadly applicable to international trade relations and does not require specific assumptions about the trade policy a country pursues, the intent of trade cooperation, and specific explanations of trade-policy making and cooperation. However, for reasons of illustrative convenience I use “cooperation” and “liberalization” synonymously in this chapter. This is also the reason why the following discussion generally refers to cooperation on tariffs. The hypotheses that I develop can be applied to all kinds of trade barriers, but the model can be better presented when simply speaking of “tariffs” instead of “barriers to trade”.

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10 As I explain in detail in section 2.4, the type of trade policy that is pursued – liberal versus protectionist – is an independent variable that matters for institutional choice.

11 Cooperation and liberalization are usually treated synonymously in the literature (e.g., Hornbeck 1910; Mansfield et al. 2002), which is neither theoretically nor empirically correct. Theoretically, cooperation can also cover the mutual increase of trade barriers, or liberalization by one country and increasing protection by another. Empirically, the history of trade cooperation shows that cooperation can serve protectionist purposes. An example of protectionist cooperation are voluntary export restraints (VERs) that were particularly common in the 1970s (cf., Curzon 1979, 385-396). VERs limited the export of specific goods to particular countries in order to keep control of the competitive pressure on import-competitors. Importing nations, most often developed nations, pushed for VERs. VERs were bilaterally negotiated between the exporting and importing country and they usually involved formal or informal obligations for the importer and the exporter (Kostecki 1987, 426-428). Another case in point is trade in textiles that was regulated through a multilateral framework agreement and bilaterally negotiated quotas (cf., Aggarwal 1985).

12 Actually, my empirical analysis covers a case in which cooperation is not on tariff matters. It should be noted, however, that my analysis is not concerned with issues that are related to national treatment, which refers to the treatment domestic producers receive in relation to foreign producers (Jackson 1997, 213). Because of this, national treatment is not related to the form of cooperation, which asks for how a country treats importers from different countries.
The chapter begins in section 2.1 with a specification of the dependent variable of my analysis, which is the institutional design on the basis of which countries exchange concessions. The design is determined by the form of cooperation in combination with the bargaining approach. The form of cooperation and the bargaining approach are generally treated as similar in the literature. As I demonstrate in this chapter, this is not correct because the two issues capture different elements of trade cooperation. The form of cooperation refers to the number of countries that receive a concession, while the bargaining approach determines the number of items to which a concession applies. I show that the form of cooperation is not either bilateral or multilateral, but is determined by two issues: the number of countries that directly exchange concessions through bargaining, and the application of unconditional most-favored-nation treatment. The two archetypical bargaining approaches in international trade cooperation are the item-by-item approach and the formula approach, which can be further divided into the linear formula approach and the harmonizing formula approach. The prime goal of my study is to explain the choice of countries between different forms of cooperation and bargaining approaches that I discuss in this section.

In section 2.2, I detail the theory of domestic political support, which is the theoretical basis of my model. I discuss the theory’s assumptions about the main economic and political actors in trade-policy making and their trade-policy preferences. The central implication of the theory is that political actors are concerned about the domestic distributional impact of trade cooperation and that they seek reciprocity. The theory goes beyond many explanations of reciprocity in international trade because it explicates the causal mechanisms that underlie the domestic politics of trade-policy making and the pursuit of reciprocity.

On the basis of this section, I discuss in section 2.3 the political economy of different domestic interest constellations and show how they influence the feasibility of unilateralism and reciprocity in international trade. Under specific conditions, the domestic configuration allows political actors to liberalize trade unilaterally. However, the domestic constellation is most likely to allow only the pursuit of reciprocity so that reciprocal action is expected to be the rule and unilateralism the exception.

In section 2.4, I develop my model of institutional choice. I demonstrate that the distributional goals of political actors can be best achieved in bilateral cooperation without MFN treatment. This form of cooperation, however, suffers from enforcement problems that lead to high transaction costs. I show that the enforcement problems can
be mitigated through multilateral cooperation, so that my hypothesis is that countries prefer multilateralism to bilateralism when concerns about enforcement outweigh concerns about distribution. However, the enforcement problems can only be eliminated at the expense of control about the distributional implications of trade. This means that the choice between different forms of cooperation is marked by a *dilemma* of reconciling concerns about distribution and enforcement. I will further show that a liberal trade policy cannot be pursued without MFN treatment because of distinct enforcement problems that are inherent to discriminatory trade. I hypothesize that MFN treatment is adopted when a liberal trade policy is sought and dropped when a protectionist trade policy is pursued.13 I conclude section 2.4 with a discussion of the choice of bargaining approaches. I hypothesize that concerns about domestic distribution prompt the choice of an item-by-item approach that, however, creates high transaction costs because one bargains about each item individually. Formula approaches potentially reduce transaction costs, which is why I hypothesize that formula approaches are chosen when concerns about transaction costs prevail. It will be shown that the choice of the bargaining approach is marked by a dilemma too, because it is impossible to pursue distributional goals under a formula approach. MFN treatment is hypothesized to make the substitution of an item-by-item approach by a formula approach more likely because MFN treatment increases the transaction costs of item-by-item bargaining.

In section 2.5, I discuss the scope of my model with respect to domestic-level and international-level variables that are commonly identified as driving forces of trade-policy making. These variables are the regime type, the domestic institutional configuration, the ideology of political actors, the country’s relative size in the international system, and asymmetry between countries. Section 2.6 involves a discussion of five rival approaches that focus on the impact of concerns about security, efficiency, the balance of payments, tariff revenue, and the role of ideas. For each competing explanation, I assess whether it yields similar or competing hypotheses on the pursuit of reciprocity, which is the cornerstone of my model. This allows me to empirically analyze their comparative explanatory power and to discriminate between the rival approaches.

13 The reader may have noted that both multilateralism and MFN treatment are a solution to an enforcement problem. The precise relation between enforcement problems, multilateralism and MFN treatment is somewhat involved and will be addressed in more detail in section 2.4.
2. A Model of Institutional Choice

2.1. Forms of Cooperation and Bargaining Approaches in International Trade

I define bilateralism and multilateralism in international relations nominally, i.e., with respect to the number of countries that are involved (cf., Keohane 1990, 731). Ruggie (1992) argues that a nominal definition of multilateralism falls short of capturing the quality of multilateral cooperation (see also Kratochwil 1993). He suggests a qualitative definition according to which multilateralism involves three elements: generalized principles of conduct, indivisibility, and diffuse reciprocity (1992, 571-572). I do not deny that some multilateral arrangements might exhibit these elements, but I do not consider them necessary parts of a definition of multilateralism. Actually, Ruggie himself notes that the qualitative definition of multilateralism is not exhaustive because not all arrangements involving more than two countries display the three elements of qualitative multilateralism (1992, 569). If one follows Ruggie, one needs to introduce a second category of multilateralism that could be labeled non-qualitative. In my eyes, operating with two classes of multilateralism makes the analysis unnecessarily complicated. In addition, it is not evident what the added value of a distinction between qualitative and non-qualitative multilateralism is. For a similar reason, I do not apply Yarbrough and Yarbrough’s definition of bilateralism and multilateralism (1986, 1992). Yarbrough and Yarbrough define the form of cooperation independently of the number of countries that are party to the agreement. The exclusion of a nominal criterion from their definition has zero resonance with the standard understanding of bilateralism and multilateralism, what is the reason why I do not use it in my analysis (cf., Gerring 2001, 52-54).

Forms of Cooperation

At the heart of trade cooperation is the exchange of concessions. As I show in more detail below, the exchange of concessions is commonly conceived of as a dichotomous matter in the literature. I argue that the dichotomous view is inappropriate because the form of cooperation on the basis of which countries exchange concessions is determined by the form of bargaining in combination with the application of unconditional most favored nation treatment.\(^{14}\)

\(^{14}\) The inclusion of an MFN clause into a trade agreement is also subject to bargaining. But with respect to the exchange of concessions one can analytically distinguish between bargaining and MFN treatment. There is also a multitude of other dimensions on which countries can cooperate in international trade. For example, one could examine whether the regime or institution within which states strike agreements is bilateral or multilateral (cf., Aggarwal 1997a, 1997b). Another could also determine
Bargaining can be bilateral and multilateral, depending on the number of countries that exchange concessions. My understanding of bilateral and multilateral bargaining can be best illustrated by a simple example. Assume there are three countries: A, B, and C. Bilateral bargaining occurs when the concessions that are given to different countries vary across these countries. Country A charges a tariff of 30 percent on item Z, which is called the *general* tariff that applies when no trade agreement is in place. It should be noted that the general tariff usually varies across items, i.e., the duties imposed on item X and Z are different. Now, assume country A reduces tariffs on item Z by 10 percent for imports from country B. The *conventional* tariff for country B then is 20 percent. Country C still receives the general tariff of 30 percent. If country A now grants a reduction of 20 percent, the new conventional tariff for C is 10 percent so that different conventional tariffs are in place for country B and C respectively. Multilateral bargaining is defined as the exchange of concessions that are identical across the countries receiving the concession. Put another way, countries do not discriminate between trading partners. In multilateral bargaining, countries A, B, and C cut their tariffs by 15 percent for the imports of the both other countries. The notion of multilateral bargaining does not say anything about the coverage of multilateralism in terms of the number of items to which the concessions apply. A, B and C can reduce the tariff on cars by 15 percent and the tariff on bikes by 20 percent or they can cut both duties by 15 percent.

The form of bargaining must be considered together with MFN treatment in order to get a comprehensive picture of institutional choice. MFN treatment guarantees the treaty partner that it will never be treated worse than any other country, meaning that MFN treatment is equal to non-discrimination among importers. In practice, MFN

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15 Until the late eighteenth century, France even charged different general tariffs for different countries (Haight 1941, 14).

16 Bilateral bargaining thus defined does not preclude that A, B and might C sit together at one table and bargain simultaneously (sequential and simultaneous bilateral bargaining are discussed in more detail below and in section 2.3). However, if A bargains about different concessions with B and C respectively, the form of bargaining is ultimately bilateral. It should be further noted that concessions do not necessarily diverge across different bilateral bargains. Country could well reduce tariffs to the same degree for B and C, but as long as country A can discriminate between B and C, the form of bargaining is bilateral.

17 See Gilligan (2004) for a similar conceptualization of bilateral and multilateral bargaining in the realm of a discussion of the broader-deeper trade-off of multilateral institutions.
treatment requires extending concessions to all countries automatically and unconditionally if non-generalization would lead to unequal treatment of treaty partners (Jackson 1997, 157).\textsuperscript{18} With respect to the exchange of concessions, MFN treatment is effectively multilateral. The reasons is that when a country has a couple of MFN treaties in place and signs a new bilateral agreement, it has to generalize the concessions it grants to the treaty partner to all the other countries that are entitled to non-discriminatory treatment. All in all, the country then gives a concession to multiple countries, which is equivalent to making a multilateral concession (Schwartz and Sykes 1996).

Theoretically, MFN treatment prohibits discrimination between trading partners. In practice, the scope of an MFN provision needs to be specified in the treaty, leaving much room for “discrimination through the backdoor”. MFN treatment is only fully non-discriminatory if no items are exempted from its coverage. In this case, a country promises MFN treatment for all imports, be they explicitly mentioned in a trade agreement or not. In the most protective variant of non-discriminatory treatment, the promise of MFN treatment only applies to those items enumerated in the treaty. Moreover, the effect of MFN treatment needs to be considered in the light of a country’s discretion to design the national tariff schedule autonomously.\textsuperscript{19} A country can construct its tariff schedule so that each product from each importing nation has its own category. In this case, an MFN provision is meaningless because there are no countries to which a concession has to be generalized.\textsuperscript{20} Precisely because an MFN provision does only apply to specific items, it is mandatory to consider the bargaining approach in conjunction with the form of cooperation (cf., Tasca 1938, 125-135).

Keeping these limits of MFN treatment in mind, an MFN provision is the second channel through which concessions are exchanged.

To sum up this discussion, I argue that the form of cooperation in trade cooperation is determined by the number of bargaining countries and the application of MFN treatment. Taking these two issues together, I distinguish between four forms of coop-

\textsuperscript{18} Conditional most favored nation-treatment is not considered here. There is no difference between cooperation without any most-favored-nation provision and cooperation including conditional most-favored-nation treatment (cf., Viner 1951a, 1951b).

\textsuperscript{19} The diversification of the tariff schedule has been a point of contention in the nineteenth century already (Bairoch 1989). But it was only in the 1980s that the GATT members could harmonize their tariff schedules in order to prevent their arbitrary modification for protectionist purposes (Jackson 1997, 150-151).

\textsuperscript{20} See Tavares (2006) for evidence that tariff schedules tend to be tailored in such a manner.
2. A Model of Institutional Choice

eration: pure bilateralism, MFN bilateralism, pure multilateralism, and MFN multilateralism.\textsuperscript{21}

Figure 1: Four forms of cooperation in international trade

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<th>MFN treatment in place</th>
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One might wonder where regionalism, currently the probably most intensively debated form of cooperation in the scholarly literature, fits into this conceptual scheme (e.g., Bhagwati 1991, 1998; Chase 2005; Herrmann-Pillath 2006a; Mansfield and Reinhardt 2003). In contrast to my nominal definition of bilateralism and multilateralism, regionalism is geographically defined (Mansfield and Milner 1999, 590-591).\textsuperscript{22} Because of the diverging definitional criteria, it is useful to examine regional trade agreements with respect to the number of contracting parties. A look at the WTO database of regional arrangements notified at the WTO (2003a) reveals that the overwhelming part of agreements is bilateral. In this perspective, most of the regional cooperative arrangements can be subsumed under bilateralism.

Aside from the question of definition, it is necessary to assess the place of regionalism with respect to its effects that are at the focus of the literature (Kono 2002). One can distinguish two schools of thought in the regionalism debate.\textsuperscript{23} The stumbling block approach considers regionalism a threat to multilateral cooperation (e.g., Andriananjara 2000). The stepping stone perspective contends that regional cooperation is the basis for further liberalization on the multilateral level (e.g., Goyal and Joshi 2006). My nominal distinction of bilateralism and multilateralism is silent regarding this issue because it allows us to see both forms of cooperation as “friends” or “foes” (Bhagwati and Panagariya 1996). More importantly, my approach does not reduce bilateralism to an alternative route to multilateral cooperation, as is the case for re-

\textsuperscript{21} Evidently, there is no sense in MFN treatment when all countries receive the same treatment, as is the case in a dual-tier system (see section 3.2), or are party to a multilateral arrangement. Stein (1984) points out that international trade has always been sub-systemic at best, meaning that it was possible to combine multilateralism with MFN treatment.

\textsuperscript{22} Some definitions do not rely on geographical criteria but on shared properties of two entities, like language or culture (cf., Mansfield and Milner 1999, 590-591; Michalak and Gibb 1997).

\textsuperscript{23} See Bhagwati (1998) and Panagariya (1999) for reviews of the debate.
2. A Model of Institutional Choice

gionalism as it is framed in the literature. Because of these reasons, I think that the concept of regionalism does not yield added value compared to my specification of the dependent variable. On the contrary, the distinction between bilateralism and multilateralism sheds light on interesting patterns of regional cooperation, like the fact that by far most of the existing regional agreements are bilateral. For these reasons, I conclude that my conceptualization of the dependent variable suffices and consider it most appropriate to start with the parsimonious distinction between bilateralism on the one hand and multilateralism on the other hand.24

Bargaining Approaches
The form of cooperation captures the number of countries to which a concession applies, but it does not say anything about the number of items that are covered by a certain concession. The latter is determined by the bargaining approach that is applied. One can basically distinguish between the item-by-item and the formula approach (Trebilcock and Howse 1999, 116-119). Each item is negotiated separately in item-by-item negotiations so that countries can negotiate different tariff cuts for different items. Under a formula approach, countries negotiate a formula that is applied to items on an across-the-board basis. One can further distinguish two subtypes of the formula approach. A linear cut reduces all tariffs by the same rate. A harmonization formula, on the other hand, takes the initial tariff levels or other factors into account and makes the size of the tariff cut conditional on those criteria, for example, by reducing higher tariffs more than lower tariffs.25

24 Of course, this does not preclude refining my conceptualization of the dependent variable, if necessary.
25 Another bargaining approach is the so-called Uruguay Round approach that was taken in the Uruguay Round negotiations on agriculture (Croome 1999; WTO 2003b). Under this approach, tariffs are reduced by an average of x percent. It is then up to the countries to cut their tariffs in a way that produces an average cut of x percent in the end. At the Uruguay Round, the average was set at 36 percent. This approach is essentially an item-by-item approach because the countries bargain with each other on an item-by-item basis about tariff reductions that should result in the previously agreed-on average cut. For this reason, I do not treat the Uruguay Round approach on its own terms. Another approach sometimes mentioned in the literature is the sectoral approach, first applied at the Kennedy Round (Evans 1971; Preeg 1970; Trebilcock and Howse 1999, 116-119). Under the sectoral approach, countries bargain about an agreement that just applies to a specific sector (e.g., steel or textiles). The sectoral approach leaves countries free to bargain on the basis of an item-by-item approach, a formula approach or a mix of both, as was the case at the Kennedy Round. Therefore, the sectoral approach is not an approach on its own and not further discussed here.
2. A Model of Institutional Choice

Table 1: Types and characteristics of bargaining approaches

<table>
<thead>
<tr>
<th>bargaining approach</th>
<th>characteristic</th>
</tr>
</thead>
<tbody>
<tr>
<td>item-by-item</td>
<td>varying concessions across items</td>
</tr>
<tr>
<td>formula</td>
<td>harmonizing</td>
</tr>
<tr>
<td></td>
<td>identical concessions across items</td>
</tr>
<tr>
<td></td>
<td>linear</td>
</tr>
<tr>
<td></td>
<td>identical concessions across similar items</td>
</tr>
</tbody>
</table>

Each form of cooperation can be combined with each bargaining approach. (Curzon 1965). Two countries can apply an item-by-item approach and negotiate about each item separately, or they can agree on a formula cut and reduce all tariffs by a specified rate. Multilateral bargaining can also be combined with both bargaining approaches. Countries can bargain about each item individually and reduce their duties on a specific item by the same rate and apply different cuts to different items. Finally, tariff concessions are similar across different items and countries when multilateral bargaining is combined with a formula cut.

In this perspective, the form of cooperation and the bargaining approach jointly determine the degree to which a country can make discriminatory concessions. The comprehensive analysis of the form of cooperation and the bargaining approach is essential when one recalls the functioning of MFN provisions. MFN treatment does only apply to a specific item, which means that a country can design its tariff schedule so that MFN treatment becomes ineffective. This discrimination between trading partners is impossible under a formula approach. For this reason, an exclusive focus on the form of cooperation would only give an incomplete picture of how concessions are exchanged in international trade.

Existing studies on the form of trade cooperation provides invalid descriptive inference of actual institutional choice because of the neglect of the difference between bargaining and MFN treatment and the failure to consider the interplay between the bargaining approach and the form of cooperation. A short review of studies on bilateralism and multilateralism shows that many lump the form of bargaining and MFN

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26 To give two examples: Great Britain proposed to France in the early 1880s to apply a formula approach on a bilateral basis. A case of multilateral item-by-item bargaining are the steel negotiations at the Kennedy Round. The participating countries agreed to harmonize their tariffs on steels, whereas the new tariff levels diverged across different types of steel (Curtis and Vastine 1971).

27 Tavares (2006) shows that European customs classification can be explained on that ground. The intentional diversification of the tariff schedule was also practiced, for example, by many countries during the depression in the nineteenth century (Bairoch 1989) and in the United States during the second half of the 1930 (Tasca 1938).
treatment together. Brown (2003) traces the evolution of bilateral and multilateral cooperation from 1850 to 2000. Although he briefly discusses the effect of MFN treatment under bilateral cooperation (2003, 40-42), he fails to systematically conceptualize the form of cooperation on the basis of a distinction between bilateral and multilateral agreements and MFN treatment. Later, Brown treats MFN bilateralism and multilateralism as equivalent. Irwin (1993b) provides a brief historical analysis of the development of bilateralism and multilateralism since the nineteenth century. Like Brown, he implicitly conceives of the form of cooperation as a dichotomous matter. Keohane’s (1986) discussion of reciprocity in international relations moves in the direction of my conceptualization of the dependent variable because he explicitly focuses on the implications of MFN treatment. However, he is mostly concerned with the link between reciprocity and MFN treatment so that he does not systematically connect the latter to bilateralism and multilateralism. Jackson points out that multilateralism can be in place without MFN clauses and that MFN treatment does not necessarily imply multilateralism because it can be combined with bilateral agreements (1997, 158-159). He does not, however, develop a systematic account of how bilateralism, multilateralism, and MFN treatment are interrelated. All studies completely disregard the examination of the applied bargaining approach. Curzon (1965) is the only one who recognizes the difference between bilateralism and multilateralism on the one hand and the bargaining approach on the other hand. He briefly mentions that both forms of cooperation can go along with both types of bargaining approaches, but he does not further elaborate his brief note on this topic.

I conclude that there is virtually no study that adequately conceptualizes the forms that international trade cooperation can take. Moreover, one does not find any systematic analysis of the bargaining approach that can be chosen for the exchange of concessions. As I will show in this thesis, a thorough conceptualization of this issue is important for both descriptive and causal inference on institutional choice in international trade.

2.2. Actors and Preferences in International Trade

In this section, I introduce the theory of domestic political support, which forms the basis of my model.\(^{28}\) The section opens with a discussion of existing political-
economy approaches on domestic trade-policy making with a particular focus on endogenous tariff theory. Afterward, I discuss the theory’s assumptions regarding the central actors in domestic trade-policy making and their trade-policy preferences. The discussion of the theory of domestic political support leads to an assessment of the feasibility of unilateralism and reciprocity in international trade in section 2.3.

Political-Economy Approaches to Domestic Trade-Policy Making
One can distinguish three basic approaches toward trade-policy making: societal, statist, and systemic (Ikenberry et al. 1988). The societal and statist approaches are two branches within endogenous tariff theory (ETT), which sees the domestic political process as the key determinant of trade policy.29 As the name suggests, ETT was originally applied to tariffs, but it can easily extended to other trade policy issues.

The societal approach to ETT puts strong, if not exclusive, emphasis on the demand side of trade policy. It particularly focuses on the preference formation, coalition-building and lobbying of economic actors (Mansfield and Busch 1995, 724-727; Nelson 1988, 800-817). Political actors do not play a decisive role in societal approaches and appear as passive receivers of demand from economic actors that is translated into trade policy. The passive role of political actors has been criticized as a major weakness of societal accounts (Mansfield and Busch 1995, 727). Statist approaches ascribe an important and independent role to political actors and the institutional structure within which they operate (Mansfield and Busch 1995, 727-728; Nelson 1988, 817-830). Advocates of the statist approach generally assume that political actors pursue the “national interest” or a social-welfare function. The less they are insulated from the influence of economic actors, the more susceptible they will be to the demands of economic actors. The domestic political institutional arrangement thus is an important variable in this perspective on trade-policy making. Both approaches emphasize different elements of the domestic political process and neglect the factor that is particularly stressed by the respective other approach. However, this is not due to the fundamental incompatibility of the two approaches. To the contrary, it has been recently argued that the two perspectives are complementary and should be integrated

the trade policy so that it maximizes domestic support. As I have mentioned above and as I will show in this section, my model of institutional choice does not require assuming that tariff levels and trade policies are chosen in that way. My model is, of course, compatible with domestic-support explanations of tariff-setting and trade-policy making, but it can also be combined with explanations that rely on other independent variables than support-maximization.

29 See Nelson (1988) for a review of ETT.
in order to get a better understanding of trade-policy making (Mansfield and Busch 1995).

The theory of domestic political support has the potential to bring together the societal and the statist approaches.\textsuperscript{30} It relies on a small set of plausible assumptions and is flexible enough to integrate the basic elements of the statist and the societal approaches (cf., Pahre 2007). In addition to the potential to combine the societal and the statist approach, the theory is a good starting point for my analysis of institutional choice for two more reasons.\textsuperscript{31} First, many studies apply the theory implicitly or explicitly (Frieden and Martin 2002). The application of the theory to a new research question contributes to an established body of literature and has high analytical utility (Gerring 2001, 106-108). Second, the theory is parsimonious and has high analytical leverage, meaning that it potentially explains many phenomena with little theoretical input (cf., King et al. 1994, 30; Pahre 2007).\textsuperscript{32}

The third theoretical account of trade-policy making, the \textit{systemic} approach (Ikenberry et al. 1988, 3-7), explains state behavior through the country’s relative position in the international system (cf., Waltz 1979). Accordingly, little attention is paid to domestic-level factors.\textsuperscript{33} This does not mean that a domestic-level explanation cannot be combined with the international-level approach. Quite the contrary, it is reasonable to assume that the behavior of economic and political actors at the domestic level is at least partially influenced by international-level variables (e.g., Rogowski 1987, 1989). However, for the time being I will focus on the domestic politics of trade-policy making because this is at the heart of the theory of domestic political support. I will return to the systemic approach and international level variables when clarifying the scope of my model in section 2.5.

\textsuperscript{30} The theory of domestic political support can also be subsumed under ETT (Nelson 1988). However, I think that if it is applied accordingly, it can serve as the basis for the integration of the two sub-approaches of ETT.

\textsuperscript{31} The theory has its roots in research on regulation (Peltzman 1976; Stigler 1971) and was first applied to tariff-setting by Hillman (1982).

\textsuperscript{32} I do not seek parsimony for its own sake, but simply prefer to start with a parsimonious model that can be subsequently made more complex.

\textsuperscript{33} The most prominent manifestation of this approach with respect to international political economy is the theory of hegemonic stability (cf., Gilpin 1975; Kindleberger 1986; Krasner 1976).
2. A Model of Institutional Choice

Assumptions about Economic and Political Actors

Economic Actors

The literature on endogenous tariff-setting mostly focuses on conflicts of interest between producers, whereas a large part of the research on domestic regulation models disputes between producers and consumers. As Nelson observes (1988, 801), the different assumptions can be explained by different modeling techniques and are not grounded in fundamentally divergent beliefs about the nature of the conflict as such. In my eyes, it is most plausible to assume that there is a conflict of interest both among producers and between producers and consumers. In this sense, my model is an extension of the theory of domestic political support.

I assume that there are four groups of economic actors: consumers, import-competers, exporters, and producers that use imported input factors, called import-users or import-seekers. All four types of economic actors are conceptualized as income-maximizers that seek the national trade policy that maximizes their personal income. The four groups of actors seek different trade policies because different commercial policies affect their incomes in different ways. Consumers demand unilateral free trade because unrestricted import-competition reduces consumer prices. Import-competers seek unilateral protectionism in order to be sheltered from the inflow of foreign goods that depress prices. Exporters compete with domestic produc-

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34 For example, the case of the Anglo-French agreement of 1860 shows that consumers played an important role in domestic politics.
35 Frieden (1999) distinguishes three ways of determining preferences: assumption, observation, and deduction. The theory of domestic political support derives the actors’ preferences by deduction and assumption because the assumed preferences are derived from a larger theoretical framework (cf., Frieden 1999, 61-62). Frieden argues that it is problematic to assume preferences because they are likely to diverge across different actors, policy fields etc. (1999, 56). I think that this problem is not as prevalent in the field of international political economy as it might be in other policy fields. In international political economy, it seems comparatively safe to assume that income matters for economic actors. This assumption is theoretically plausible and it has turned out to be empirically accurate (cf., Crystal 2003b). The notion of empirical accuracy additionally introduces “observation” to the way preferences are and have been determined in the past in IPE. In this view, all three ways of deriving preferences are combined.
36 In research on preferences, there is a long-standing debate about the difference between “interests”, “preferences” and “strategies” (e.g., Crystal 2003b; Frieden 1999; Moravcsik 1993). In my study, income-maximization can be considered the preference and the trade policy the strategy with which the preference is pursued. But one can also say that income-maximization is the “interest” and that actors have corresponding preferences about trade policy. I think that the assigning of labels is not that important here as long as they are applied consistently. What matters for my model is that economic actors are income-maximizers and that the degree to which this goal can be achieved depends on the national trade policy.
37 Domestic producers might also decide to adjust to the import-competition and to specialize if they consider this the income-maximizing strategy (Lusztig 1998). In this instance, there is no domestic conflict about the national trade policy and no need for international cooperation, which, as I argue below, is rooted in the conflicting trade-policy preferences of economic actors.
ers and foreign exporters in foreign markets and seek two things: enhanced access to foreign markets in order to compete on a “level playing field” with domestic producers (cf., Jackson 1997, 21), and preferential treatment so as to obtain a competitive advantage in relation to foreign exporters. Both goals of exporters can be achieved through conditional trade liberalization (Bailey et al. 1997; Milner and Yoffie 1989). The reason for this is that if a foreign country does not grant preferential treatment, the original country can use its trade policy to enhance the conditions for exporters. By making the reduction of their own liberalization conditional on foreign trade liberalization, the incentives for other countries to liberalize and grant preferential treatment are increased. Import-users seek unilateral free trade. Free trade reduces the price of imported input factors with the effect that production costs decrease and the income of import-users increases. Table 2 summarizes the trade policies sought by each actor. It can be seen that three of the four types of economic actors have conflicting trade-policy preferences, indicating that there exists a large potential for domestic conflict between economic actors over the course of the national trade policy.

Table 2: Economic actors and preferred trade policies

<table>
<thead>
<tr>
<th>Economic actor</th>
<th>Preferred trade policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consumers</td>
<td>Unilateral free trade</td>
</tr>
<tr>
<td>Import-competers</td>
<td>Unilateral protectionism</td>
</tr>
<tr>
<td>Exporters</td>
<td>Conditional liberalization</td>
</tr>
<tr>
<td>Import-users</td>
<td>Unilateral free trade</td>
</tr>
</tbody>
</table>

Theoretically, the four types of economic actors can be neatly distinguished. In practice, however, it is likely that one company will belong to two or three different groups. For example, a company can be an import-competer with respect to one item and an exporter of another item. In this instance, the company holds different trade-policy preferences. It seeks protection where it faces import-competition and conditional liberalization for its exports. When the two goals are in direct conflict with each other, for example, if exports can only be promoted by increasing import-competition,

38 Even if companies are pure exporters, import-competers, or import-seekers, it is most likely that an industry or sector includes companies representing different types of economic actors (cf., Milner 1988).
the company will favor the trade policy that maximizes its income. A similar argument can be made for consumers. Consumers employed in an import-competing or exporting company have two identities that lead to countervailing trade-policy preferences (cf., Frieden and Martin 2002, 130). Such a person seeks unilateral free trade as a consumer, but at the same time demands unilateral protectionism as an employee in an import-competing industry. In the case of conflicting trade-policy preferences, consumers, just like companies, pursue the policy that maximizes their income.

A final note has to be made about the determinants on the formation of trade-policy preferences, which is a long-debated topic in research on international trade (e.g., Hiscox 2002; Rogowski 1989). The basic question is what variables explain why a specific economic actor prefers one trade policy to another? The two classic models are the factor-mobility model, based on the Stolper-Samuelson theorem and the Heckscher-Ohlin theorem, and the factor-specificity model, which is also known as the Ricardo-Viner theorem (Alt and Gilligan 1994). In recent decades, the model of intra-industry trade evolved as a kind of third explanation.

The Stolper-Samuelson theorem assumes that production factors can be easily relocated from one place to another. It is stipulated that the owners of abundant factors are export oriented and seek free trade. The owners of scarce factors prefer protectionism and are import-competers, which means that the line of division runs between owners of scarce and abundant factors and cuts across sectors. On the other hand, the Ricardo-Viner theorem assumes that some factors are specific so that they cannot be easily moved between places. On the basis of this premise, it is predicted that the conflict of interest is between owners of specific factors in the import-

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39 Crystal (2003a) argues that contradictory trade-policy preferences of companies make it difficult to explain how their preferences are formed. In practice, it might be difficult to determine the preferences of a company and to predict which one prevails, as this is a general problem for empirical tests of theories of preference formation (Frieden 1999). But on a theoretical level, I do not see a problem in modeling a conflict of interest in a rational choice framework.

40 There is no conflict of interests when a consumer is working for an import-user since both seek unilateral free trade.

41 The choice of a particular instrument of protectionism, e.g., tariffs and quotas, is not of concern here (cf., Magee et al. 1989; Nelson 1988, 813). Any protective device demanded by import-competers is to the detriment of the economic actors who benefit from liberal trade. This leads to domestic conflict between import-competers on the one hand and the other groups on the other hand. As I will detail below, it is this conflict that determines institutional choice so that the particular instruments of protectionism are not important to consider.

42 See Alt (1996) and Borkakoti (1998) for an exposition of the underlying logic of the two theorems. In practice, it appears reasonable to assume that both models have explanatory power and to ask for the conditions under which the Stolper-Samuelson or the Ricardo-Viner theorem holds (Hiscox 2001, 2002). However, specification of these conditions is not important for my model, so I leave this issue aside here.
2. A Model of Institutional Choice

competing and exporting industry. The trade-policy preference of the owners of mobile factors cannot be unequivocally determined.

Both the factor-specificity and the factor-mobility models predict inter-industry trade due to specialization in production between countries. In the 1970s, researchers found that a substantial proportion of trade occurs within industries. Intra-industry trade is assumed to be less conflictual on the domestic level because the distributional implications and the adjustment costs of intra-industry trade are smaller compared to inter-industry trade (Greenaway and Milner 2005, 155; Lipson 1982, 453). In this respect, the intra-industry trade model is fundamentally different from the two other models. Economic actors involved in intra-industry trade are prepared to accept additional import-competition if they receive enhanced access to foreign markets in return (Gilligan 1997, 461). Notwithstanding this difference between inter-industry and intra-industry trade, the latter also involves conflict between economic actors. First of all, intra-industry trade is limited to specific sectors (Lipson 1982, 453), meaning that the inter-industry models just discussed still apply to many sectors. Moreover, economic actors benefiting from intra-industry trade insist on conditional liberalization. In this view, intra-industry traders are similar to exporters, so the domestic interest constellation that I detailed above applies to intra-industry trade as well. In sum, it can be concluded that all three models of preference formation and coalition-building come to a similar prediction: different economic actors have divergent trade-policy preferences that pit them against each other. Since the three accounts are similar in this central respect, my model of institutional choice is silent about how economic actors form their preferences.

Economic actors have a favorite trade policy, but they do not get to decide it. In order to get the preferred commercial policy implemented, economic actors must lobby political actors. From the perspective of economic actors, lobbying is a collec-

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43 Intra-industry traders insist on the exchange of concessions within their sector. This point distinguishes intra-industry traders from classic exporters who treat liberalization at home purely instrumentally because they are not anxious about increasing import-competition.

44 In the trade policy literature on lobbying, the classic instrument of taking influence is financial campaign contributions to political actors (e.g., Grossman and Helpman 2001; Verdier 1994). Money certainly matters to political actors, but campaign contributions can hardly play a role in non-democratic countries to which political-economy approaches are applied, too. Another tool that is always available is the provision of information, since private actors can try to shape decision-making in their favor by providing information for political actors (Milner 1997b). “Voice” is another powerful instrument to articulate support for and discontent with political actors (cf., Dowding et al. 2000; Hirschman 1970). Economic actors can try to influence the public attitude vis-à-vis political actors so as to strengthen or
2. A Model of Institutional Choice

tive-action problem (Olson 1965). Actors that did not contribute to lobbying cannot be prevented from receiving the benefits of successful lobbying. The collective-action problem puts consumers into a comparative disadvantage vis-à-vis the other three groups because of the huge difficulty of organizing a lobbying effort (Alt and Gilligan 1994; Baldwin 1996, 148-149). However, consumers can try to get their preferred trade policy implemented through other means, most notably elections. Milner and Rosendorff (1997) find that elections lead to trade agreements that are more liberal. Verdier (1994) also finds in his analysis that voters are able to influence trade-policy making via elections. In light of this evidence, elections seem to serve, at least to some degree, as a substitute for the ability to organize collective lobbying. Elections are obviously not a viable instrument in non-democratic countries, but civil disobedience and violent resistance are the ultimate means for consumers to exert influence in non-democracies (Frieden and Martin 2002, 130). Therefore, I assume that all four types of economic actors are able to influence trade-policy decision-making in democracies and non-democracies alike.

The assumption that economic actors try to influence trade-policy decision-making in their favor is the static perspective. In the dynamic view, the theory of domestic political support stipulates that the support of economic actors for political actors is positively correlated with the effect of the trade policy on income. The link between the national trade policy and support of political actors by economic actors involves two steps.

First, the national trade policy affects the income of economic actors. The precise effect of the trade policy on income hinges is contingent on a multitude of economic variables. For example, the effect of a tariff cut hinges on the price elasticity of the good in question, the initial tariff level, etc. The second step covers the translation of the change in income into altered support for political actors. Support for political actors is reduced if the trade policy decreases an economic actors’ income. On weaken their position. In sum, economic actors have a multitude of lobbying instruments at their disposal, which are all subsumed under “lobbying” in the following.

These and other economic variables can be easily incorporated into the model. As I mentioned at the beginning of this chapter, however, I focus on tariffs because it is my goal to discuss the essentials of the theory of domestic political support and to concentrate on the implications for institutional choice. Bagwell and Staiger’s economic theory of the GATT (Bagwell and Staiger 2002) actually deals with the effect of economic variables on institutional choice in terms of reciprocity and MFN treatment. My analysis can be considered complementary to Bagwell and Staiger’s work. Whereas they focus on the macro-level by linking institutional choice to economic variables, I deliver a micro-level explanation that focuses on the preferences and behavior of economic and political actors.
the other hand, support for political actors is increased if the economic actors’ income rises due to a favorable trade policy. The rationale for this assumption is straightforward. Since economic actors aim to maximize income, they reward political actors that favor the income-maximizing trade policy and punish political actors that pursue a harmful commercial policy.46

Figure 2: Effect of national trade policy on economic actors’ support for political actors

![Diagram showing the relationship between national trade policy, economic actors' income, and support for political actors.]

The degree to which the change in income results in a change in support depends on the opportunity of economic actors to reward and punish political actors (Grossman and Helpman 1995). In essence, the change in support depends on the interaction of the change in income and the degree to which an economic actor can translate this change into altered support.47 Having discussed different types of economic actors, their trade-policy preferences, and their relation to political actors, I will turn to the assumptions about political actors in the following section.

46 Empirical support for this argument comes for example from Nollen and Quinn (1994). They show that members of the 100th U.S. Congress voted in line with the dominant economic interest of their constituency.
47 Milner (1997a) is an example for a study that try examine quantitatively the interaction effect.
2. A Model of Institutional Choice

Political Actors

Political actors are conceived of as office-seekers, who aim to remain in or get into public office (cf., Laver and Schofield 1998, chap. 2).\(^{48}\) The assumption of non-welfare related motivations of political actors reflects the insight derived from past trade policy research that a simple welfare-analysis of alternative trade policies is insufficient for the understanding of actual trade-policy making (Ruigrok 1991).\(^{49}\) The support of economic actors is of tremendous importance to office-seekers, which is the reason why they care about the economic actors’ trade-policy preferences and their response to the effect of the trade policy on income.

I showed above that economic actors seek different trade policies in order to maximize income. This is a problem for political actors because the trade-policy preferences of the economic groups cannot be easily aggregated into a trade policy that satisfies all four types of economic actors. Because of this domestic constellation, political actors conceive of trade concessions that are received by foreign countries as *domestic political benefits*. Foreign concessions benefit exporters, who in turn increase their support for the political actors in power. Concessions granted to other countries also represent benefits insofar as import-seekers and consumers are concerned. However, such concessions also imply *domestic political costs* because competitive pressure for import-competers increases. It follows that trade policy has *domestic distributional* implications, which political actors care about because they directly affect their prospects for office. *The goal of political actors is to find a trade policy with a neutral or even positive net effect on support.* In the following section, I will detail how different domestic interest constellations affect the feasibility of unilateralism and reciprocity in international trade.

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\(^{48}\) This plausible assumption explains why my domestic-support approach to institutional choice does not necessarily require a domestic-support explanation of trade-policy making. When political actors holding office seek liberalization because of an intrinsic belief in the benefits of liberal trade, they are nonetheless interested in remaining in office in order to be able to pursue liberal trade (and other policies). A case in point is the British turn to unilateral free trade in the 1840s (McKeown 1989; Schonhardt-Bailey 1999, 2006). A bundle of factors that was not related to support-maximization explains the adoption of unilateral free trade. Nonetheless, the British government compensated those domestic producers that suffered from the pursuit of free trade. Therefore, a domestic-support account of institutional choice can be seen independently of a support-model of trade-policy making.

\(^{49}\) Welfare concerns implicitly enter into the model by conceptualizing consumers and import-users as economic actors. Since these two types of actors seek unilateral free trade, their most preferred trade policy is similar to the trade policy that maximizes overall welfare. However, this point is not important for my model of institutional choice. I remain silent about the determinants of trade *policy*. My model allows for political actors pursuing a welfare-maximizing trade policy as long as the political actors are care about its domestic distributional effects and political repercussions.


2. A Model of Institutional Choice

2.3. Unilateralism and Reciprocity in International Trade

It is undisputed that reciprocity is a fundamental principle in international trade (Herrmann-Pillath 2006b). However, by far most of the studies dealing with reciprocity are indifferent to its sources. Bhagwati (2002), for example, primarily discusses concerns about efficiency as the determinant of reciprocity, but mentions that reciprocity might be also attributable to other factors. Empirical and theoretical reasons demand explication of the causal mechanisms that underlie the pursuit of reciprocity.

If one conceives of reciprocity as an impediment to trade liberalization, a position that is frequently taken among economists (cf., Wonnacott and Wonnacott 2005), one needs to know why reciprocity is sought by trade negotiators and what could be done to diminish its importance. Here is an example: the appropriate countermeasures against reciprocity are fundamentally different when reciprocity is sought for reasons of external security (cf., Morrow 1997), or because of the domestic distributional consequences of trade. In the former case, reciprocity becomes less important when security can be achieved through other means, e.g., disarmament. In the latter case, one could reduce the centrality of reciprocity by better sheltering political actors from the influence of economic actors. A thorough understanding of the driving forces behind reciprocity is also essential for theory-building. For example, one can assume that a country’s attitude toward the legalization of international trade relations is determined by the same factors that explain a country’s insistence on reciprocity (cf., Goldstein and Martin 2000). When political actors seek reciprocity so as to improve efficiency, they should be in favor of legal rules that constrain the inefficient behavior of public and private actors. In contrast, political actors who are concerned about the domestic distributional impact of trade should oppose legalization because it diminishes their opportunity to intervene in trade relations in case of economic crisis (cf., Ruggie 1982). The theory of domestic goes beyond most of the existing studies political support by detailing the sources of reciprocity.

As I explained above, a concession that is granted to other countries entails a benefit and a cost. This double-sided character of a concession that is made allows for unilateral liberalization under specific conditions. In particular, unilateral liberalization is politically feasible when the increase in support of consumers and import-

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50 The efficiency argument is discussed in more detail in section 2.6.
seekers outweighs the decrease in support from import-competitors and exporters.\textsuperscript{51}

This implication is important because it sometimes seems to be argued that political-economy approaches cannot explain unilateralism.\textsuperscript{52} However, unilateralism is a rare phenomenon compared to bilateral or multilateral reciprocal action (Nogués 1990, 26). The theory of domestic political support offers a simple explanation for why this is the case. The basic argument is captured in figure 3 in an expanded form of the two-step process I introduced above.

Figure 3: A model of reciprocity in international trade

The reason reciprocity is chosen more often than unilateralism is that the political-economy conditions favoring unilateralism are less common than those that favor reciprocity.\textsuperscript{53} Unilateralism pits consumers and import-seekers against import-

\textsuperscript{51} Exporters are expected to reduce their support because the political actors do not use the own barriers to trade as bargaining chips in reciprocal bargaining.

\textsuperscript{52} The pursuit of reciprocity is generally attributed to political-economy variables, whereas unilateralism is attributed to the political actors’ pursuit of welfare (cf., Bhagwati 1993; Krugman 1997). However, reciprocity may also be sought for reasons of welfare and unilateralism might be rooted in political-economy conditions.

\textsuperscript{53} Another reason for the pursuit of reciprocity might be that reciprocity is the support-maximizing mode of action. This argument is in line with the political-economy approaches that model the choice of a trade policy as endogenous to support-maximization (e.g., Milner 1997a; Pahre 2007). As I explained before, my model is silent on the determinants of trade-policy making.
competitors and exporters. While all four types of economic actors might be able to punish or reward political actors, import-competitors and exporters represent smaller groups that face fewer collective action problems and tend to be more effective in punishing political actors than import-seekers and consumers are in rewarding political actors (cf., Bailey et al. 1997, 309). In this constellation, political actors find it difficult to establish a balance between the domestic political costs and benefits of unilateral liberalization. On the other hand, reciprocity is feasible when the decrease in support from import-competitors is smaller than the increase in support from the other three groups. It seems safe to assume that the conditions for the pursuit of reciprocity are much more common than the conditions for unilateralism. The theory of domestic political support thus delivers a plausible and simple explanation for why the pursuit of reciprocity is widespread in international trade.

The distinction between specific and diffuse reciprocity is well-established in international relations theory (cf., Keohane 1986). Specific reciprocity is characterized by the simultaneous exchange of trade concessions of equivalent value. Under diffuse reciprocity, the “definition of equivalence is less precise, [...] and the sequence of events is less narrowly bounded” (Keohane 1986, 4). Given that two types of reciprocity are distinguished in international relations research, I must ask what kind of reciprocity political actors seek in trade cooperation. I think there are good reasons to assume that political actors insist on specific reciprocity. In the realm of trade, “equivalent concessions” means that the political costs of one country’s concessions are neutralized by the benefits received from another country’s concessions. The balance between costs and benefits is essential for the political survival of political actors. I assume that political actors are not prepared to accept short-term losses of support, whereas the feasibility of short-term losses in a specific situation depends on ad-

54 Reciprocal trade liberalization is also infeasible when the political costs exceed the benefits. This condition is a simple reformulation of the hypothesis that the net distributional effect should be non-negative.

55 It is occasionally claimed that trade cooperation is marked by a collaboration game (cf., Bagwell and Staiger 2002; Pahre 2007), meaning that countries can benefit from cheating. In the realm of trade, defection means that tariffs are increased unilaterally so that actors reverse some of the liberalization that was achieved through cooperation. In the last end, this means that political actors are not inherently committed to liberal trade. It should be recalled that I do not make any specific assumptions about the underlying determinants of the trade-policy preferences of political actors. Depending on the trade-policy preferences, it may be the case that commercial cooperation is characterized by a collaboration game, but it may also be marked by different strategic structure, for example when political actors seek liberal trade because of a commitment to the idea of liberalization. Since my model remains silent on the determinants of the pursued trade policy, I do not assume that the strategic structure of a collaboration game is in place.
ditional variables, e.g., the electoral cycle and the degree to which societal support is important for office-seeking. Keeping this in mind, I hypothesize that concerns about domestic distribution leads to the pursuit of specific reciprocity.  

2.4. Institutional Choice

My key argument is that political actors use the institutional form of cooperation as an instrument to achieve their distributinal goals. As I will show in this section, the actual choice is shaped by the political actors’ pursuit of domestic distributional goals in interaction with concerns about enforcement. Enforcement is essential in international trade cooperation because commercial agreements provide satisfactory distributional effects that political actors aim to preserve (otherwise, political actors would not have concluded the agreement) (Bagwell et al. 2002, 57). Figure 4 outlines my argument.

Figure 4: Distribution and enforcement as determinants of institutional choice

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+ (-)  + (-)
national trade policy economic actor's income

+ (-)
support for political actors

political actor's concerns about domestic distribution political actor's concerns about enforcement of trade treaties

institutional choice
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56 Concessions are often phased in international trade, meaning that a tariff cut is not implemented at once, but in consecutive steps over time. From a political-economy perspective, phasing in is attractive for political actors because import-competers experience the income effects of trade cooperation in small, homoeopathic doses. Stretching a concession over time probably softens domestic resistance against the trade policy. Moreover, it is easier for import-competers to adjust to increasing import-competition if concessions are phased in. Phasing in does not undermine the pursuit of specific reciprocity because political actors can try to phase in concessions so that each specific reciprocity is achieved in each phase.
Bilateralism and multilateralism, as well as distribution and enforcement, are central variables in international relations research (Koremenos et al. 2004). One finds, however, surprisingly little research on this topic (cf., Rixen and Rohlfing 2007; Ruggie 1992). As I have shown elsewhere (Rohlfing 2007), much of the research on enforcement fails to take into account the nature of the good under scrutiny. This observation might come as something of a surprise because the characteristics of goods have received ample attention in international relations theory (e.g., Aggarwal and Dupont 1999; Sandler 1992; Snidal 1979). The problems of neglecting the nature of the good becomes apparent in the advice that the problems of multilateral cooperation under enforcement problems can be resolved through privatization (e.g., Axelrod and Keohane 1985; Martin 1993; Oye 1985). Privatization means that a multilateral bargain is split into multiple bilateral arrangements. The feasibility of privatization hinges on excludability because it makes little sense to cooperate bilaterally if other actors cannot be excluded from getting a free ride. This caveat is generally not mentioned in the literature simply because the nature of the good is not considered.57 In addition, the current research on enforcement does not examine concerns about enforcement in conjunction with concerns about distribution (cf., Krasner 1991), although it is generally acknowledged that the interaction of the two variables matters (Fearon 1998; Koremenos et al. 2004; Morrow 1994).

In a similar vein, studies dealing with distribution generally disregard its interaction with enforcement problems. Furthermore, the potential impact of excludability is ignored. This neglect becomes manifest in arguments that bilateral bargaining is more likely to produce an agreement than multilateral bargaining (Koremenos et al. 2004). Such arguments do not take into account whether bilateralism is feasible at all. One further shortcoming of research on distribution is that the underlying bargaining goals of actors are left obscure. This deficiency is especially important for theories on the effect of the multilateralization of bilateral deals. In particular, work on issue-linkage stipulates that bilateral bargaining stalemates might be resolved by adding actors to the bargain (Koremenos et al. 2004; Scharpf 1997; Sebenius 1983). These studies do not discuss the conditions that make the expansion of a bargain the solution to a bilateral stalemate. On an abstract level, the implicit assumption is that the new country does not raise any claims vis-à-vis the other two countries. If the new country issues requests of its own, which is quite likely

57 An exception to this criticism is Pahre (1994) who models the feasibility of bilateralism and multilateralism under public-good conditions.
sues requests of its own, which is quite likely because it probably wants something in return for solving the bilateral deadlock, then the expanded bargain becomes even more complicated and adding extra actors achieves nothing at all. The viability of adding parties can only be assessed if one examines the bargaining motivations of the involved actors (cf., Rohlfing 2007).

My study is particularly suited to address these shortcomings of international relations theory. Cooperation in international trade allows me to examine the effects of excludability and non-excludability on institutional choice. Excludability is possible because a country can raise its tariffs on imports coming from a specific country (Conybeare 1986; Grundig 2006). MFN treatment creates publicness in international trade because it requires treating all importers non-discriminatorily. This makes it possible to examine the role of non-excludability for institutional choice. Furthermore, the discussion of the theory of domestic political support has shown that I am explicit about the underlying motivations of political actors. Finally, as I argue below, institutional choice in international trade is marked by the interaction effect of distribution and enforcement. For these reasons, my study fills one of the larger gaps in research on the rational design of international cooperation.

In the following, I will develop my hypotheses on institutional choice between the four forms of cooperation that were detailed above. I will start with a treatment of the choice between bilateral and multilateral bargaining and proceed with a discussion of MFN treatment. Afterward, I will show how distribution and enforcement interact. Finally, I will develop hypotheses on the choice between bargaining approaches.

Bilateral versus Multilateral Bargaining

Concerns about Distribution: Bilateral Bargaining

The effect of a tariff cut on the income of import-seekers, import-competers and consumers depends on the tariff levels at home, while the effect of exporters’ income depends on foreign tariff levels. This link between tariffs and income depends on the highly plausible assumption that other influential variables, e.g., the terms of trade and the degree of organization of economic actors, diverge across countries and items. In this constellation, the tariff concessions political actors are prepared to give to and

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58 Trade cooperation under MFN treatment is cooperation in the shadow of excludability, which is why it is not perfectly similar to genuine non-excludability. However, the history of trade cooperation under MFN treatment indicates that countries behave as if trade were genuinely non-excludable (cf., Hornbeck).
demand from foreign political actors depend on the tariff levels at home and abroad. The national tariff schedule, enumerating all the goods and the corresponding tariffs, contains hundreds or thousands of different items, each of which is charged with a different tariff. Given that the tariffs levied on the same items differ from country to country, it follows that the political actors’ request and offer for specific items will vary from country to country as well. This means that bargaining is country-sensitive, meaning that a country’s bargaining behavior depends on characteristics that vary across countries.

A second reason that requests and offers vary from country to country lies in the logic of specific reciprocity. Tariffs serve as bargaining chips in reciprocal negotiations because a country’s own concession is made conditional on a foreign concession (Stein 1984, 369). In the extreme case, a country that eliminates all its tariffs will find it impossible to open foreign markets. In this perspective, political actors need to take care that they still have sufficient bargaining power under the new tariff levels. A low-tariff country might be prepared to cut its tariffs more vis-à-vis another low-tariff country, but still be reluctant to reduce its tariffs substantially in relation to a high-tariff country in order to maintain sufficient bargaining power. For these two reasons, I argue that the concessions that are demanded and offered vary from country to country, which is equivalent to the conjecture that political actors exchange concessions bilaterally. I hypothesize that bilateral bargaining is preferred over multilateral bargaining because of concerns about domestic distribution.

At this point, it is necessary to extend the discussion beyond tariffs because it is not always technically possible to bargain bilaterally, e.g., in negotiations about rules and standards. For example, a government cannot agree to give no subsidies to any company in one agreement and at the same time conclude another agreement allowing

59 This was the experience Great Britain made in the nineteenth century (Marsh 1999) and the reason for why the United States relied on pure bilateralism in the nineteenth century (Hornbeck 1910, chapter 4).
60 Nogués (1990) believes that developing countries are reluctant to liberalize trade unilaterally because they do not want to deprive themselves of their bargaining power in multilateral trade negotiations. Kenen (1960, 44) mentions that this was one reason why countries were reluctant to make concessions vis-à-vis the high-tariff United States in the interwar period.
61 Bargaining between high-tariff and low-tariff countries will be explored in more detail in the section on bargaining approaches.
62 Thede (2005) and Gawande and Kishore (2006) deliver quantitative evidence in support of these hypotheses. Their analysis of bilateral patterns of trade barriers suggests that a political-economy model explains these patterns quite well. However, her analysis is located at the cross-case level so that they cannot assess whether the stipulated causal processes can be held responsible for the outcome. My study can be conceived of as a complementary analysis that focuses on the underlying political processes producing the observed cross-case patterns.
subsidies. On the other hand, rules on anti-dumping allow for bilateral bargaining. A country would be able to follow strict anti-dumping rules with respect to imports from country A and apply less strict rules to imports from country B. However, the application of different rules goes along with high administrative costs because of the need to apply rules of origin and the management of a multitude of anti-dumping rules. In this view, governments and economic actors are likely to favor multilateral rule-setting (McGuire 1999, 150). However, rules and standards have domestic distributional implications, which should be difficult to manage in multilateral bargaining (McGuire 1999, 152). The literature on multilateral standard-setting (e.g., Bhagwati 1993; Cottier et al. 2000; Rege 2002), particularly research focusing on the EU (e.g., Genschel and Plümper 1997; Scharpf 1999), strongly indicate that the harmonization of rules is problematic because of political actors’ concerns about distribution. So with respect to those rules that deny the possibility of bilateralism, the question is not what form of cooperation is chosen, but how the distributional conflicts can be resolved. The literature identifies issue-linkage and side-payments are two means that are suitable to satisfy distributional concerns in multilateral bargaining (cf., Sebenius 1983), which is discussed in the following section.

Concerns about Enforcement: Multilateral Bargaining

Concerns about distribution prompt political actors to prefer bilateral over multilateral bargaining. The question that then lies beneath is: When do political actors choose to bargain multilaterally? I argue that the decision for multilateralism is driven by the enforcement problems that always exist in bilateral cooperation (cf., Schwartz and Sykes 1996). The difference between pure bilateralism and MFN bilateralism lies in the country which suffers from the enforcement problem. I now first discuss the problems of pure bilateralism and to MFN bilateralism afterward.

In the default mode, bilateral bargains are held sequentially. Each bilateral treaty creates neutral or positive domestic distributional effects for the political actors

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63 Negligible concerns about distribution cannot be the reason for multilateral bargaining. The pursuit of reciprocity is meaningless if concerns for domestic distribution are low. Since my model relies on the assumption that domestic distribution matters, it cannot predict what institutional form results if political actors do not care about distribution. The form of cooperation is determined by whatever objective then matters most for political actors.

64 Until the foundation of the GATT, bilateral negotiations had mostly been held sequentially. One can observe some clustering of bilateral negotiations in the nineteenth century (Pahre 2001b). However, sequential bargaining was still dominant. Moreover, simultaneous bargaining in the GATT was much more institutionalized than clustered negotiations in the nineteenth century (Irwin 1993b). The spread
concluding the agreement, so the contracting countries have an interest in enforcing the agreement in order to preserve the domestic distributional balance (cf., Lipson 1984). The essential problem of bilateralism in the absence of MFN treatment is that each new agreement tends to cause trade diversion, which means that trade between the two new treaty partners will increase at the expense of their respective trading partners (Hornbeck 1910, chap. 9; Saggi 2004). Trade flows have a direct effect on the income of economic actors and on their support for political actors. Because of the link between income and support, trade diversion leads to concession diversion and decreases the value of concessions received through past agreements (Ethier 2004).

The notion of concession diversion can be best illustrated by an example. Assume that there are three countries A, B, and C and that no trade agreements are in place at t₀. A and B sign a treaty at t₁ representing a feasible domestic distributional effect for both states. At t₂, countries A and C conclude another treaty that in turn has non-negative distributional effects for the two contracting partners. Since A is party to both agreements, it is able to achieve its domestic distributional goals in both cases. However, a problem arises for country B. B negotiates an agreement with A at t₁, given the trading conditions A grants to C’s exporters at t₁. The treaty A signs with C at t₂ improves the conditions for C’s exporters, having the effect that B’s exporters now experience less favorable trading conditions than they had enjoyed between t₁ and t₂. Thus, the concessions A granted to B at t₁ decrease in value because of the concessions A gives to C at t₂.

This example shows that concession diversion creates an enforcement problem inasmuch as the parties to an agreement find it difficult to preserve the beneficial domestic distributional effects that derived from their deal. In the dynamic perspective, pure bilateralism means to externalize the enforcement problem on the treaty partner. As I have just shown, the contracting country that does not sign further treaties (B) faces the enforcement problem because of concession diversion that derives from the agreements the other contracting partner (A) signs with third countries (C). One can assume that countries generally sign more than one trade agreement, meaning that both subscribers to a purely bilateral treaty face this problem.

The situation is different when MFN treatment is combined with bilateral bargaining (I leave it to the following section to explain why MFN clauses are applied). I
have explained above that an MFN provision requires a country to generalize concessions to all countries that are entitled to MFN treatment without receiving a concession in return. Concessions are exchanged non-simultaneously in sequential bargaining so that two variants of reciprocity clash with each other. Bargaining rests on the logic of specific reciprocity, whereas MFN provisions embody the logic of diffuse reciprocity (Keohane 1986). Because of the functioning of MFN treatment, a country that negotiates new treaties thus internalizes the enforcement problem (cf., Bagwell and Staiger 2005a). A simple example will clarify this point.

Again, there are three countries A, B, and C that do not have any trade agreements in place at t₀. A signs a MFN treaty with B at t₁ that generates a non-negative domestic distributional effect for both states. At t₂, A concludes another MFN agreement with C. The adherence to the MFN principle puts A in a disadvantageous position. It has to extend the concessions granted to B to C, and it has to generalize the concessions it will grant to C to B. Country A internalizes the enforcement problem, since the extension of the concessions to B makes it impossible for A to preserve the favorable distributional effects it has achieved in its agreement with B. Taking the discussion together, it can be seen that the question is not whether an enforcement problem is in place in international trade, but which countries suffer from it.

It should be noted that these enforcement problems are somewhat distinct from the enforcement problems that are at the focus of the literature on international cooperation (cf., Oye 1986). The notion of enforcement problems refers to the difficulty of achieving compliance of the treaty partners with the terms of an agreement. States are assumed to have an incentive to defect and that non-compliance is difficult to observe (monitoring problems) and/or to sanction (sanctioning problems) (cf., Martin 1993). As I have explained above, my model of institutional choice remains silent on the determinants of trade-policy making. Depending on the underlying driving forces of the pursued trade policy, countries may have an incentive to defect so that an additional enforcement problem results (cf., e.g., Bagwell and Staiger 2002). My model can easily accommodate such incentives, but it can be also applied to international trade relations in the absence of the classic enforcement problem. In addition, one should notice that both monitoring and sanctioning problems are not issues in international commerce. Trade treaties are self-monitoring because exporters will consult their government when the trading conditions get worse than previously agreed on in an agreement (Lipson 1984, 17). Sanctioning is uncomplicated as well, since countries suffer-
ing from defection can respond by imposing trade restrictions on imports from the de-
fecto (Conybeare 1986).

Nonetheless, countries confront enforcement problems in international trade be-
cause of the above-mentioned problems of pure bilateralism and MFN bilateralism. As I have explained above, non-compliance by other states is not at the center of my model. However, non-compliance is only interesting inasmuch as cheating by other countries undermines the terms of the agreement the contracting states have agreed on. In essence, this is the effect of concession-diversion and MFN treatment, meaning that these two factors create an internalized and an externalized enforcement problem.

There are two institutional solutions to these two enforcement problems. First, countries can cluster their bilateral negotiations (cf., Pahre 2001b; Schwartz and Sykes 1996). Countries negotiate simultaneously so that the overall distributional implications of all bilateral deals can be assessed. Simultaneous bargaining does not solve any enforcement problems, however, because concession-making in one bargain still interferes with concession-making in other bargains. The advantage of simultaneous bargaining is that countries can bargain back and forth until either a feasible distributional effect is reached or no such deal is achievable. It follows that clustered bilateral bargaining is only of limited effectiveness in reducing transaction costs. I assume that the feasibility of clustering for the reduction of transaction costs hinges on the number of bargaining countries. The larger the number of countries involved in clustered bargaining, the more transaction costs will increase. I hypothesize that political actors cluster bilateral negotiations in small-n settings in order to avoid the adverse distributional effects of sequential bilateralism.

The second solution to the enforcement problem is multilateral bargaining (Schwartz and Sykes 1996). Multilateral bargaining also implies clustering simply because more than two countries negotiate simultaneously. The important difference between bilateral and multilateral bargaining is that the latter eliminates the enforcement problems because countries only have to negotiate about a single concession (I will leave the interaction with the type of the bargaining approach aside here). In a sense, there always exists an enforcement problem, insofar as two parties to the multilateral bargain might decide to conclude a purely bilateral agreement in the future. But the problem is much larger in bilateral bargaining, since the two contracting countries can be confident that the respective treaty partner will sign additional bilateral agreements in the future. Moreover, one can assume that a multilateral bargain generally
2. A Model of Institutional Choice

takes place on the explicit or implicit understanding that the renegotiation of the agreement will be multilateral as well.

However, the transaction costs of bargaining do not automatically drop once countries substitute multilateralism for bilateralism. The degree to which transaction costs can be decreased depends on the extent to which political actors sacrifice their domestic distributional goals. The more important these goals remain in multilateral bargaining, the less transaction costs can be reduced, because each country strives for a multilateral outcome that fits the individual interest most. Since the individual interest varies from country to country, there will be no single concession that satisfies the distributional objectives of a larger number of countries. The more political actors are prepared to forgo their domestic distributional concerns, the easier it will be to find an agreement and transaction costs decrease (cf., Fearon 1998). When distributional goals become less important, the need for bilateral bargaining declines as well and multilateral bargaining becomes feasible. It should be noted that the condition for multilateral bargaining is not that concerns about distribution are low. I argue that the relative concerns about distribution and enforcement matter. My hypothesis is that multilateral bargaining is preferred over bilateral bargaining when concerns about enforcement prevail over concerns about distribution. In this view, clustering is a middle course between bilateral sequential bargaining and multilateral bargaining. The simultaneous character of bargaining reflects concerns about enforcement that are higher than under sequential bargaining, while bilateralism represents the still-prevailing concerns about distribution.

Political actors do not need to make an either/or decision between bilateral and multilateral bargaining because they can also apply a mixed form of bargaining (cf., Keohane 1986). In mixed bargaining, the multilaterally agreed-on bargaining outcome applies unless items are exempted for bilateral bargaining. The precise mix between items that are made subject to bilateral and multilateral bargaining depends on relative concerns about distribution and enforcement so that the interplay between these two concerns is also present in mixed bargaining. When a mixed bargaining approach is taken, the share of items that are exempted for bilateral bargaining can serve as a proxy for the relative concerns about distribution and enforcement. With respects to

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65 One can assume that political actors are prepared to somewhat sacrifice their distributional goals if they decide to bargain multilaterally. Both decisions have the same source, namely, the insight that bilateral bargaining and strong concerns about distribution hinder trade cooperation.
the reduction of transaction costs, it can be said that the more items are reserved for bilateral bargaining, the less transaction costs will decline and vice versa. Political actors can also try to achieve their distributional goals in multilateral bargaining with other instruments than mixed bargaining. They can, for example, increase support by granting subsidies to economic actors that compensate for the lost of income, or they can alter a non-tariff barrier to trade in favor of the negatively affected economic actor. It will be important in my empirical analysis to take this into account in order to get a comprehensive understanding of institutional choice.

Unconditional Most-Favored-Nation Treatment

The analysis of MFN treatment is nearly absent from the political science literature on trade cooperation. Pahre (2001b) argues the relationship between countries is strained through a discriminatory trade policy so that the conferral of MFN treatment can be explained by a countries’ will to keep good political relations with its trading partners. A similar argument is made by McKeown (1982, 19-20). As I will show in the following, I do not dispute that discrimination can cause political stress. But Pahre’s and McKeown’s argument exhibits two shortcomings. First, they do not explicate the underlying causes of the political stress. Is it, for example, because political actors are committed to a fairness principle, or for reasons of security that are seen as undermined through discrimination? It is particularly striking that McKeown and Pahre do not develop a political-economy explanation of MFN treatment, because they both apply a political-economy approach to explain regime change (McKeown) and trade cooperation (Pahre) in the nineteenth century. My second criticism is that they only provide anecdotal evidence on this issue.

MFN treatment is much more at the focus of economic research (e.g., Bagwell and Staiger 1999, 2002; Ethier 2001, 2004; Horn and Mavroidis 2001; Saggi 2004; Schwartz and Sykes 1997). Most of the studies, however, concentrate on the effect of MFN treatment and neglect the motivations of political actors to grant it in the first place (Schwartz and Sykes 1996). This makes it impossible to explain the choice between discrimination and non-discrimination (Pahre 2007, chap. 10; Schwartz and Sykes 1997). The inability to explain variation in MFN treatment is a shortcoming

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66 Of course, the reasons for MFN treatment cannot be seen independently of its effects, since political actors decide on the basis of the expected effects. However, existing studies do not link these two issues and just examine the consequences of MFN provisions.
because the history of trade cooperation is full of examples of discriminatory trade.\textsuperscript{67} My approach does not suffer from this deficiency because it explains when MFN treatment is granted and denied. Thereby, I make a valuable contribution to the literature on MFN treatment and promote the understanding of discrimination and non-discrimination in international trade. I will now develop my arguments on the application of MFN provisions.

Trade concessions that are received represent domestic political benefits, while concessions that are granted embody domestic political benefits and costs. This constellation brings about three problems of enforcement. First, the political actors of a country may feel it necessary to withdraw some concessions that they had previously granted in a trade agreement (cf., Pahre 1998). The reasons for such action are changing economic and/or political scope conditions.\textsuperscript{68} For example, the currency of the trading partner may depreciate after the conclusion of the agreement so that imports become cheaper and exports more expensive.\textsuperscript{69} Because of the altered exchange rate, the concessions that were once given by the country with the appreciating currency cease to represent a domestic distributional effect. Political actors from the appreciating country can respond by renegotiating the trade agreement. Given that a vast number of variables affects the value of concessions, it is likely that political actors often face the need to renegotiate their treaties, which means that the transaction costs of trade cooperation are high. The alternative response is to revoke some of the concessions in order to restore the balance. Depending on which and how many concessions are withdrawn, the unilateral adaptation to the changing exchange rate may create a negative domestic distributional effect in the depreciating country whose political actors nullify some concessions in return.

\textsuperscript{67} Some studies examine why the GATT and the WTO allow countries that are members of a regional arrangement to abandon MFN treatment. This focus on the period after World War II disregards that countries also discriminated against other countries before the GATT and the WTO came into existence. Explanations of regionalism tend be incomplete in explaining discrimination because of their limited focus on the time after 1947.
\textsuperscript{68} I have explained above that the strategic structure of trade cooperation is that of a collaboration game if the political actors choose a support-maximizing trade policy. In this instance, there additionally exists an incentive to defect from the terms of the agreement in order to maximize support (cf., Rixen and Rohlfing 2007). The potential consequences of this scenario are similar to the one I discuss here.
\textsuperscript{69} Any variable that is related to the link between trade policy and change in support potentially undermines the balance that is found in a trade agreement.
The sequential unilateral adaptation to the withdrawal of concessions may lead to a retaliatory spiral that can quickly result in a tariff war (Conybeare 1987).\textsuperscript{70} MFN treatment is an effective instrument for preventing such a development from occurring. In the absence of MFN provisions, a country can choose to withdraw concessions in a specific bilateral arrangement, while doing nothing in other settings. Under MFN treatment, on the other hand, a country that wants to revoke a concession must do this for \textit{all} countries with which it has agreements in place (Hornbeck 1910, 101). Although it is possible to act accordingly, the incentives to adapt unilaterally to changing scope conditions are vastly reduced under MFN treatment.\textsuperscript{71}

The second problematic aspect of pure bargaining is that political actors might be tempted to increase their bargaining power at the international level (cf., Hornbeck 1910; Mansfield and Reinhardt 2003). Imagine that country \textit{A} signs a trade agreement with country \textit{B}, which discriminates against country \textit{C}, so \textit{C} has an incentive to sign a trade agreement with \textit{A} on its own. Moreover, \textit{A}’s treaty with \textit{B} increases \textit{A}’s bargaining power in the negotiations with \textit{C}. \textit{C} might respond positively and conclude an agreement with \textit{A}, or it might feel offended and retaliate against \textit{A}.\textsuperscript{72} In addition, \textit{B} experiences concession diversion and may retaliate against \textit{A} as well. The risk of retaliatory action, which effectively runs counter to country \textit{A}’s intention to liberalize trade, can be diminished through MFN treatment.

The third enforcement problem has already been discussed in the section on bilateral and multilateral bargaining under the label of “externalized enforcement problem”. I have shown that it is virtually impossible to achieve domestic distributional goals in sequential bilateral negotiations, even if the scope conditions are stable and political actors act with the best of intentions. Each new trade agreement undermines the distributional balance that was achieved in previous trade agreements. When political actors refrain from increasing their tariffs in response to the adverse conse-

\textsuperscript{70} A prominent example of a tariff war that developed along these lines is the Franco-Italian tariff war of the 1880s and 1890s (see Conybeare 1987 for a treatment of this conflict).

\textsuperscript{71} Evidently, a country is free to discriminate between imports after it has renounced its MFN obligations. However, the costs of unilateral abandonment of MFN treatment are likely to exceed the benefits in the medium and long run. The reason is that the elimination of MFN treatment will provoke the abandonment of MFN treatment by the treaty partners. Unilateral abandonment of MFN provisions improves domestic support when the treaty partner signs new trade agreements one benefits from through foreign MFN treatment. Yet, this means that the country that adheres to MFN treatment has to bear a loss in support so that it will eliminate its MFN provision as well. The two countries then trade on the basis of pure bilateralism, with the consequences detailed above.

\textsuperscript{72} Great Britain experienced the negative response between 1815 and 1823 when its trading partners retaliated against its attempts to conclude a series of agreement on the basis of pure bilateralism (Bairoch 1989).
quences of agreements they are not party to, they have to renegotiate all the existing agreements that are affected by the new treaty (Brown 2003, 41). The adverse distributional effect of sequential bilateral bargaining can be eliminated by applying MFN treatment (Bagwell and Staiger 2005c). The concessions that are granted in a new agreement have to be extended to all countries entitled to MFN treatment. The renegotiation of existing agreements becomes superfluous (Jackson 1997, 158-159), at least from the perspective of countries that benefit from MFN provisions.73

All three enforcement problems can also be mitigated through clustering and multilateral bargaining. The question that then comes up is, when do countries prefer clustering and multilateral bargaining over MFN treatment, and vice versa?74 The answer to this question lies in the reason for applying MFN provisions. I argue that the three problems of pure bilateralism make it difficult to combine this form of cooperation with a liberal trade policy. All three problems are likely to spur retaliatory spirals, which are counterproductive to liberalization, or cause high transaction costs because of the need to renegotiate existing trade agreements. These effects make it quite problematic to pursue a liberal trade policy effectively. It is true that the problematic features of pure bargaining are not absent when protectionism is pursued, but I assume that two issues make it less problematic to combine protectionism and pure bilateralism. First, a country cooperates less under a protectionist trade policy (Mansfield et al. 2002), i.e., the adverse distributional effects of pure bargaining are less intense for a protectionist country.75 Second, protectionist countries are more prepared to take the risk of counterretaliation. Conybeare’s study of tariff wars (1987) shows that tariff wars have their roots in protectionist trade policies. Moreover, tariff wars often do not end quickly because protectionist countries seem to be prepared to bear the burden of the consequences of protectionism, for some time at least. I hypothesize that MFN treatment is applied in combination with a liberal trade policy and not applied when a protectionist trade policy is followed.

73 As I have shown above, non-excludability due to MFN treatment creates an internalized enforcement problem for the countries that have to generalize the concessions.

74 It has been explained above that the choice between clustering and multilateral bargaining depends on the number of the involved countries. Clustering is suitable for small-n bargaining and multilateralism for negotiations covering a larger number of countries.

75 A case in point is trade cooperation in Europe in the first half of the nineteenth century. Almost all countries applied pure bilateralism but almost no retaliatory action was taken. The reason for this can be found in the fact that countries did not cooperate much. When countries cooperated, it was guided by the spirit of “defensive protectionism” (Bairoch 1989). “Defensive protectionism” means that discrimination did not aim at inflicting harm on other countries, in contrast to Great Britain’s attempt to open foreign markets through a discriminatory trade policy between 1815 and 1823 (Brown 2003, 50).
This hypothesis might not come as a surprise, since this is the pattern one generally observes in international trade. However, two things should be noted. First of all, my model makes precise predictions about why political actors decide for and against MFN treatment. This is important to notice because, second, it often seems to be argued that countries adhere to non-discrimination because of an inherent commitment to the idea of liberal trade (cf., Jackson 1997). My approach stipulates that political actors grant MFN treatment in order to make trade cooperation feasible from the political-economy point of view, and not because of the belief in the welfare benefits of non-discrimination.

Furthermore, this hypothesis helps to answer the specific question of when countries cluster and bargain multilaterally and when they apply MFN treatment. The decision between clustering and MFN treatment hinges on the pursued trade policy. Protectionist countries prefer pooling over MFN treatment and only bargain multilaterally after they have clustered bilateral negotiations. MFN treatment is not applied at all. Liberal countries prefer MFN treatment to simultaneous negotiations because the former constrains a country less in its bargaining behavior than clustering, which makes a country formally dependent on other countries. Furthermore, liberal countries only cluster after the introduction of MFN treatment and only decide to bargain multilaterally after simultaneous MFN bilateralism has been chosen as the form of trade cooperation.

Two final notes on MFN treatment are in order. First, MFN treatment is often seen as an integral element of trade liberalization because of the inherent commitment to non-discrimination (e.g., Hornbeck 1910, chap. 9). According to my model, MFN clauses are neither applied because of the benevolence of the country granting MFN treatment, nor because of an intrinsic value attached to the principle of non-discrimination (Ruggie 1992, 571). To the contrary, MFN provisions are to the benefit of the country applying them. Second, “protectionism” does not necessarily mean that a country does not reduce its barriers to trade. Even the most protectionist countries, like France in the first half of the nineteenth century or the Third Reich in the 1930s, did not cease cooperating and pursuing liberal trade to some degree. A markedly protectionist trade policy can go along with “managed” liberalization where tariffs for selected goods are reduced. In my model, the protectionist element of pure bargaining is that the concessions exchanged through direct bargaining are strictly limited to the countries that are party to the agreement. Third countries cannot benefit from the
agreement because the concessions are not generalized through MFN clauses. Political actors keep tight control on import-competition arising from trade cooperation and domestic producers are sheltered from additional import-competition that would result from MFN provisions otherwise.76

**The Interaction of Distribution and Enforcement**

I summarize my arguments on the choice between the four forms of cooperation in this section and explicate how the interaction of distribution and enforcement matters in institutional choice. Institutional choice between the four forms of cooperation is explained through the variables “prevailing concerns: distribution vs. enforcement” and “pursued trade policy: liberal vs. protectionist”. The decision between bilateral and multilateral bargaining depends on whether political actors are more concerned about domestic distribution or the enforcement problems of trade cooperation, whereas I will show below that the two are closely intertwined. Bilateral bargaining is chosen when distributional concerns prevail, while countries prefer multilateral bargaining when political actors are more concerned about enforcement than distribution.

The application of MFN treatment hinges on the type of trade policy that is implemented. Trade cooperation without MFN treatment makes it difficult to follow a liberal trade policy so that liberalization is assumed to be combined with MFN treatment. Correspondingly, political actors pursuing a protectionist trade policy are more prepared to carry the consequences of the absence of MFN treatment that I detailed above. The hypotheses on the determinants of institutional choice are summarized in table 3.

**Table 3: Hypothesized determinants of forms of cooperation**

<table>
<thead>
<tr>
<th>type of trade policy</th>
<th>protectionist</th>
<th>liberal</th>
</tr>
</thead>
<tbody>
<tr>
<td>prevailing concerns</td>
<td></td>
<td></td>
</tr>
<tr>
<td>distribution</td>
<td>pure bilateralism</td>
<td>MFN bilateralism</td>
</tr>
<tr>
<td>enforcement</td>
<td>pure multilateralism</td>
<td>MFN multilateralism</td>
</tr>
</tbody>
</table>

76 Pure multilateralism is of course not protectionist when all available actors are party to the agreement since there are no actors to which the terms of the agreement could be extended. There never existed such a constellation in trade because commercial relations have always been sub-systemic at best (Stein 1984, 359-360). There have always been countries outside of whatever multilateral agreement had been concluded in the past.
Distribution and enforcement are the central variables driving institutional choice. I have shown above that there is no form of cooperation that fully satisfies the concerns about distribution and enforcement at the same time. There is no perfect fit between the political actors' goals and any form of cooperation because of the complex way in which distribution and enforcement interact. Concerns about distribution prompt the choice of pure bilateralism. At the same time, the distributional concerns create enforcement problems that bias institutional choice in favor of multilateral bargaining and the application of MFN provisions. This means that concerns about distribution and enforcement create diametrically opposed incentives, whereas the actual institutional choice is expected to depend on the factors detailed in table 3. Figure 5 summarizes this interplay between distribution and enforcement.

**Figure 5: The interplay between distribution and enforcement in institutional choice**

Because of the interaction between distribution and enforcement, there is no single best form of trade cooperation. I assume that the institutional design of trade cooperation is a continuous point of concern for political actors and that one can observe much discussion and struggle about the appropriate form of cooperation. This argument stands in contradiction to Keohane (1986) who contends that the combina-
tion of multilateral and bilateral elements since the Kennedy Round represents the best of all forms of cooperation. I agree with Keohane that a mixed form of cooperation tends to satisfy the political actors’ concerns best. However, I consider it unlikely that even a mixed form of cooperation can provide a satisfactory institutional fit for a larger number of countries with divergent institutional preferences. The increasing institutional complexity in the world trade regime seems to support my argument. For example, the negotiations on specific concessions on trade in services (cf., Crystal 2003a; Mattoo 2000) and government procurement (cf., Hoekman and Mavroidis 1997; Trionfetti 2000) were negotiated on the basis of a mix of pure bilateralism and MFN bilateralism. Multilateral bargaining did not play any role. The spread in bilateral cooperation outside of the GATT/WTO trade rounds also shows that there seems to be some dissatisfaction with the bargaining mode in the GATT/WTO. This issue will be further explored in the conclusion of my thesis when elaborating my thoughts on a different bargaining design in the WTO.

The Choice of Bargaining Approaches
On the basis of my discussion of institutional choice between the four forms of cooperation, I will now develop my hypotheses on the choice of bargaining approaches. I distinguished the form of cooperation from the bargaining approach in section 2.1. The form of cooperation refers to the number of countries receiving a concession, whereas the bargaining approach captures the number of items to which it applies. As I detailed above, a comprehensive analysis of the forms of cooperation and bargaining approaches is necessary if one wants to fully understand the exchange of concessions in international trade.

The effect of a tariff cut on support for political actors depends on variables that vary from country to country. The country-sensitivity of bargaining is the reason that political actors’ concerns about distribution prompt them to prefer bilateral bargaining over multilateral bargaining. The notion of country-sensitivity can be adapted to the explanation of the choice between bargaining approaches. I argue that the distributional effect of a tariff reduction depends on the degree to which it is item-sensitive. Item-sensitivity means that the effect of a tariff cut on support varies across items. Item-sensitivity can be considered the rule in international trade, since a large bundle of item-related factors affects the change in support. Because of the presence of item-sensitivity, a formula approach is unlikely to result in a neutral or positive change in
support. It might happen that a formula approach creates such a distributional effect for a single country, but it is unlikely that it will be viable in bilateral settings, and it will become increasingly inappropriate with a rising number of countries. In contrast, item-by-item negotiations allow countries to fine-tune the concessions that are exchanged on particular items. I follow from this the hypothesis that political actors choose an item-by-item approach because of concerns about distribution.

The item-by-item approach is time-consuming and creates high transaction costs, however, since one negotiates about every single item on its own. Transaction costs can be reduced through a formula approach because it only requires negotiating one formula that applies to all items. My hypothesis is that a formula approach is chosen when concerns about transaction costs outweigh concerns about distribution. The caveat I detailed in combination with the hypothesis on multilateral bargaining applies here as well, because transaction costs do not automatically decrease when a formula approach is followed. They can only be reduced if the political actors are prepared to give up some of their distributional concerns.

Taking the hypotheses on the bargaining form and the bargaining approach together, one can see that the choices on the form of cooperation and the bargaining approach are closely connected. This link can be expressed in the hypotheses that an item-by-item approach is most likely to be combined with bilateral bargaining, and formula approaches are most likely to be linked to multilateral bargaining. The formulation of the hypothesis makes it clear that it is generally possible to combine each form of cooperation with each bargaining approach, but that it is unlikely to observe specific combinations because of the reasons just mentioned.

I distinguished a linear approach and a harmonizing cut as two sub-types of formula approaches in section 2.1, making it necessary to discuss when a linear approach is preferred over a harmonizing approach and vice versa. I claim that the choice between the two variants of the formula approach hinges on the tariff structure at home and abroad. One can basically distinguish two types of tariff structures, namely, a high-tariff and a low-tariff structure. High-tariff countries levy high duties on some imported items, but not necessarily on all. Low-tariff countries, on the other

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77 With respect to the bargaining approach, the notion of “transaction costs” is not a manifestation of enforcement problems, as is the case for the form of cooperation, since an enforcement problem does not play a role in the choice of the bargaining approach.
2. A Model of Institutional Choice

hand, do not have any tariff peaks in their schedules, meaning that the tariff dispersion and/or the average tariff is smaller in low-tariff states than in high-tariff countries.

Starting with the situation in which a low-tariff country bargains with a high-tariff country, I assume that political actors of low-tariff countries pursue a harmonizing approach. The rationale for this hypothesis is that the greater the received tariff cuts are, the better it is for the own exporters. On the other hand, the effect of a concession that is granted depends on the net effect of the increase in support by import-users and consumers, and the decrease in support by import-competers. As I mentioned above, it is reasonable to assume that import-competers exert more influence on political actors than the other two groups, so giving small concessions is better than granting large concessions. Consequently, I argue that political actors in low-tariff countries seek a harmonization approach that cuts foreign tariffs more than domestic tariffs. Political actors in high-tariff countries would also like to reduce foreign tariffs more than their own duties, but it is obvious that they cannot make such a demand of low-tariff countries. The best a high-tariff country can achieve is a linear approach. The hypothesis that follows is that political actors in high-tariff countries seek a linear approach.

These two hypotheses hold for situations where high-tariff countries confront low-tariff countries. It is not possible to derive a unique hypothesis for institutional choice when countries with similar tariff structures negotiate with each other, since the two formula approaches are equivalent in effect. A linear and a harmonizing tend to serve equally well to achieve a non-negative distributional outcome when countries with similarly tariff schedules negotiate with each other. A harmonizing cut tends to decrease the income of import-competers more than a linear cut, but it also leads to larger increases in the income of exporters, import-users, and consumers. In this view, the choice of a specific type of formula is not important for achieving a non-negative distributional effect. The hypothesis is that, with respect to the distributional implications, political actors are indifferent between a linear and a harmonization formula in negotiations with countries having similar tariff structures. The hypotheses on the choice of bargaining approaches are summarized in table 4.
Table 4: Hypothesized determinants of bargaining approaches

<table>
<thead>
<tr>
<th>tariff structure of bargaining countries</th>
<th>similar</th>
<th>dissimilar</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>high-tariff</td>
<td>low-tariff</td>
</tr>
<tr>
<td>transaction costs</td>
<td>linear or harmonizing</td>
<td>linear</td>
</tr>
<tr>
<td>distribution</td>
<td>item-by-item</td>
<td></td>
</tr>
</tbody>
</table>

Finally, I discuss the effect of MFN treatment on the choice of the bargaining approach. On the one hand, one might argue that there is no such link. MFN treatment influences the number of countries receiving a concession on a particular item, but it is not related to the number of items to which a concession applies. According to this line of thinking, the application of MFN provisions is unrelated to the choice of bargaining approaches. However, I think that it is more reasonable to assume that MFN treatment has an effect. As I explained above, MFN treatment biases bargaining toward multilateralism, because the latter potentially reduces the high transaction costs deriving from bargaining under MFN treatment. If one recalls that multilateral bargaining is most likely to be combined with a formula approach, it follows that MFN treatment promotes the substitution of item-by-item negotiations with a formula approach. On the basis of this hypothesis, one can further derive a link between the choice of bargaining approaches and the type of trade policy that is pursued. Remember that I hypothesize that MFN treatment is combined with a liberal trade policy and that protectionism is marked by the absence of MFN provisions. Bringing this argument together with the previous hypothesis, it follows that a protectionist trade policy is based only on item-by-item negotiations. The reverse hypothesis, which is that liberal trade is combined with a formula approach, is not automatically true, since it is very possible for an item-by-item approach to be applied in trade liberalization.

2.5. Scope of the Model
Having detailed my model of institutional choice, I now clarify its scope with respect to the five variables that the literature identifies as influential in trade-policy making. Three variables refer to the domestic level: the regime type, i.e., democracy versus non-democracy, the national institutional configuration in terms of legislative and electoral organization, and the ideology of political actors. Two closely connected in-
ternational-level variables are the *relative size* of a country in the international system and *asymmetry* between negotiating countries.

The cornerstone of my model is the argument that political actors try to balance the positive and effects of trade policy on the support of economic actors. Since this is a key element of my approach, I ask with respect to each of the following variables, is the logic of balancing is affected by this variable? If the answer is yes, in what way? I will briefly review the main arguments and findings for each of the independent variables on the basis of these questions. It is not possible to give a comprehensive review of the literature for each of the variables since this is the beyond the scope of this chapter, so I will focus on the core arguments one finds in each body of literature. I conclude that the model need not be modified with respect to the regime type, the ideology of political actors, and the relative size of the country. The national institutional configuration matters insofar as a growing constituency increases the probability that political actors will need to accommodate the conflicting interests of economic actors. This in turn increases the likelihood that political actors will pursue reciprocity in trade-policy making. Asymmetry biases the institutional choice of small countries toward multilateral bargaining, because large countries are less able to employ their size in asymmetric negotiations.

**Regime Type**

Research on the relationship between trade policy and regime type produced contradictory hypotheses. Some studies find that democracy leads to liberalization (e.g., Mansfield et al. 2002; Verdier 1994), while others take the opposite perspective (e.g., Dai 2006). Some scholars make the effect of the regime type conditional on additional variables. Henisz and Mansfield (2006) argue that the impact of economic actors is larger in democracies than in non-democratic regimes because the former are characterized by a larger number of veto points. Democratic leaders are more responsive to popular demands than autocratic leaders, whose base of power is smaller, so democracies are more likely to turn protectionist than are autocracies in the face of deteriorating macroeconomic conditions. Pahre’s quantitative analysis (2007) lends additional empirical support to the argument that the interaction effect between regime type and the domestic interest constellation between economic and political actors is what matters.
The review sows that there is consensus in the literature that the regime type plays a role, but there is disagreement about the nature of the effect. This is not a point of concern for my model, because neither of the existing arguments contradicts the logic of balancing. On the contrary, some of the studies, e.g., Mansfield et al. (2002) and Henisz and Mansfield (2006), explicitly rely on the argument that interests are balanced in trade-policy making. The regime type is assumed to influence the salience political actors assign to different types of economic actors. As long as political actors care to some degree about the interests of economic actors with diverging trade-policy preferences, they have to balance their changes in support. Numerous empirical studies support this argument. Gourevitch (1986) qualitatively examines national responses to economic crises with a cross-national and historical perspective. The selected countries represent different types of political regimes. Gourevitch finds that economic groups were often successful in influencing the decision-making process, independently of the type of political regime. Pahre (2007) shows quantitatively that the theory of domestic political support well explains trade-policy making in different regime types in the nineteenth century. In light of these and other studies, I conclude that there is no need to alter my model with respect to the regime type.\footnote{Other studies are, for example, Conybeare (1991), Hiscox (2002), Ladewig (2006), Milner (1988), and Smith (1980).}

**Domestic Institutional Configuration**

Another factor generally seen as influential in trade-policy making is the domestic institutional configuration. On the most general level, institutions show their influence through aggregation and delegation of interests and the weight the interests of different actors receive in the political process. I distinguish between the legislative and the electoral organization of the political process and start my discussion with the former (Frieden and Rogowski 1996, 131-132).

The legislative organization of the political process captures the rights and roles of actors in law-making. Several studies have examined the effect of legislative organization on the outcome of trade-policy making. Milner and Rosendorff (1997) contend that divided government produces more protectionist agreements compared to unified government. A similar argument is made by Lohmann (1994). These two papers suggest that a large number of involved actors makes trade liberalization difficult. Sherman (2002) takes the opposite perspective and argues that unified govern-
ment goes along with lower tariffs. Henisz and Mansfield (2006) make a more general claim by arguing that the more political actors enjoy a veto in the legislative process, the more difficult it is to change trade policy in the face of changing macroeconomic conditions. As work on the effect of the regime type, the effect of the legislative organization on the trade policy is disputed in the literature.

The existing disagreement is not a problem for my model, since the organization of the legislative process only matters indirectly for institutional choice. A hypothetical example helps clarifying this point. Assume that there are two political actors involved in decision-making. Actor A is only concerned about import-competers, and actor B only receives support from exporters. Both actors prefer unilateral action and neither needs to balance the change in support from economic actors with conflicting trade-policy preferences. Assuming that side-payments are ruled out, the two actors will not be able to agree on a common trade policy because one of them will lose and of them will gain support. Trade cooperation on the basis of reciprocal action will only be feasible when the constituency of one political actor comprises economic actors with contradictory trade-policy preferences. This is not a matter of the legislative organization, but of the size of the constituency and the electoral organization to which I now turn.

The situation is different when one political actor has domestic distributional concerns deriving from support from economic actors with incompatible policy preferences. This is a matter of the size and composition of an actor’s constituency and refers to the effect of the electoral organization. One can assume that the smaller the constituency, the less likely it is that it comprises all four types of economic actors. It is evident that political actors always have consumers in their constituency. Regarding organized economic actors, I assume that the smaller the district, the more likely it is that there is only type of organized actor. The effect on institutional choice depends on whether the economic actor’s trade-policy preference collides with the consumers’ preference. I have explained above that individuals most often have two identities: one as a consumer and one as an employee. Assuming that the consumer identity matters, the two identities coincide when a consumer is employed in an import-seeking industry. When the consumer is working in an exporting company, the two identities are reconciled when the strategy of conditional liberalization, which is pursued by exporters, is successful. A conflict between consumers and producers only exists when an import-competing industry dominates in the constituency.
The institutional choice is easy for political actors when a voter’s identity as an employee prevails over their identity as a consumer. Political actors are not concerned about distribution and reciprocity when there is no conflict of interest within their constituency so that they do not have a specific institutional preference.\(^79\) On the other hand, political actors care about distribution when interests of economic actors collide within their own constituency. The need to balance interests within their constituency increases with its size because it becomes more likely that their constituency involves different types of economic actors with contradictory trade-policy preferences (cf., Frieden and Rogowski 1996, 133). I hypothesize that political actors with small constituencies do not care about distribution, and political actors facing large constituencies are concerned about distribution.\(^80\) My conjectures can be generalized beyond the realm of the electoral constituencies that have been discussed so far. I have argued above that elections are not the only instrument by which trade-policy making is influenced by economic actors. It is not the size of the electoral constituency that matters, but the size of the constituency in general, i.e., in terms of the size of the group that provides support for a specific actor. The executive of non-democratic regimes also has a “constituency,” and the two hypotheses can be generalized to non-democratic countries as well.

My arguments are supported by empirical research on the link between the size of the constituency, the electoral system, and the pursued trade policy. For example, Gourevitch’s (1986) analysis of “politics in hard times” shows that economic actors find their way into the political decision-making process in democracies with different electoral systems as well as in non-democracies. Park and Jensen (2007) find that the size of the constituency matters for the trade policy that is pursued, whereas the electoral system does not have any systematic influence. On average, political actors representing small constituencies seek protectionism. The larger the constituency grows, the more liberal the trade policy becomes. These findings indicate that import-competers strongly shape the pursued trade policy in narrow constituencies, either because they can lobby more effectively than consumers, or the identity as a consumer is only second-ranked to the identity as an employee in an import-competing industry. A

\(^79\) An exception to this argument is when exporters dominate in the district because they pursue conditional liberalization. Conditional liberalization could be achieved through reciprocal unilateralism, but it seems more plausible to assume that exporters and political actors seek trade agreements in order to reduce uncertainty (Bagwell and Staiger 2002, 4).

\(^80\) Since of the constituency is not systematically related to any electoral system, I do not assume that the type of electoral system matters for institutional choice.
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liberal trade policy becomes feasible in large constituencies because, on average, it tends to include organized actors that seek liberal trade. Political actors representing large constituencies then become able to trade off the interests of import-competitors against the interests of those actors that benefit from liberalization (Bailey et al. 1997). Because of these findings, I consider it reasonable to start with the baseline assumption that the size of the constituency influences institutional choice, whereas the type of the electoral system does not make a difference.

Ideology of Political Actors
There is a long-standing tradition of investigating the relationship between partisan politics and public policy (e.g., Garrett 1998; Hibbs 1977). Although it is undisputed that trade policy is linked to partisan politics (Berger 2000), there is little systematic cross-national research about how “left” and “right” are related to the national trade policy. Simmons’ (1994) analysis of interwar trade-policy making indicates that “left” and “right” make a difference. She shows that leftist governments pursued a more liberal trade policy in order to keep consumer prices low for workers. Rightist governments adopted more protectionist policies so as to shelter national producers from import-competition. Other studies on the partisan influence also find systematic differences in the influence of leftist and rightist parties on trade-policy-making (cf., Epstein and O'Halloran 1996; Milner and Judkins 2004; Nollen and Quinn 1994, 520).

With respect to institutional choice, however, it does not seem that partisan politics matter. Parties generally have large constituencies, so they need to balance the changes in the support of economic actors that belong to their constituency. I follow from this that the ideology of parties and political actors is not related to institutional choice.

Relative Size of a Country
The relative size of a country plays a central role in the systemic approach toward trade-policy making that I briefly discussed in section 2.2. Hegemonic stability theory is the most prominent manifestation of the systemic perspective on trade-policy making. The main hypothesis is that the openness of the international trade system depends on the presence of a hegemonic state. A related conjecture stipulates that the relative size of a country determines its trade policy. Large countries seek liberal trade, while small countries are protectionist and free-ride on the liberal commercial policy of the large states (Gilpin 1975; Kindleberger 1986; Krasner 1976; Lake 1988).
These hypotheses were later rejected for theoretical (e.g., Snidal 1985) and empirical reasons (e.g., McKeown 1983). There is no compelling reason to believe that a hegemon should be interested in an open international trade system, nor is there convincing empirical evidence supporting this argument. Moreover, the relationship between the size of a country and its trade policy seems to be the opposite of what hegemonic stability theory contends. Small countries have more to gain than to lose from commercial openness and generally seek liberal trade (Katzenstein 1985). Big countries have large domestic markets and have less incentive to adopt a liberal trade policy (Conybeare 1987).

The observation that the openness of a country is negatively correlated with its size does not affect the logic of balancing. The political actors of countries of any size are concerned about the domestic distributional implications of their trade policy. A difference between large and small countries seems to be the feasibility of liberalization, since the latter have more to gain from openness than the latter. Ceteris paribus, the political actors of small countries should find it easier to avoid a negative distributional effect of liberalization. The gains economic actors can reap from liberalization are larger in small countries than in large countries, so it should be relatively easier for political actors in small countries to achieve favorable domestic distributional consequences.81

One additional important difference between small and big countries is the varying degree of responsiveness of political actors to the lobbying of economic actors. Big states are, on average, less trade-dependent than small states. The extent of trade-dependence matters when concerns about domestic distribution are in conflict with another trade-related goal of political actors, e.g., external security. Ceteris paribus, the political actors of large countries sacrifice their distributional goals more readily, and objectives other than domestic distribution are more likely to prevail (this point will recur in the discussion of case selection for my empirical analysis).

**Asymmetry between Countries**

A factor that is related to a country’s size is the *asymmetry* in size between negotiating countries. When a large and a small country bargain with each other about a trade

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81 Simmons (1994, chap. 7) shows that Belgium turned later to protectionism than France during the Great Depression. This difference in the behavior of the two countries supports the argument that small countries have more to gain from open trade, that it is easier for them to pursue liberalization and more difficult to achieve a domestic distributional balance under protectionism.
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agreement, the large country can try to influence the terms of the agreement in its own favor by creating a non-agreement point that is worse than the proposed agreement and the status quo. The large country can threaten to increase its trade barriers in the case of non-agreement. Threats of retaliation by the small country are not credible, since a small country generally suffers more from a trade war than a large country (Conybeare 1987, 23-25). The asymmetry in size may prompt a small country to accept an agreement that creates unfavorable domestic distributional effects in order to avoid the even more unfavorable consequences of the non-agreement outcome. Such behavior on the part of a small country is not in contradiction with my model. The fact that the political actors of the small country are concerned about domestic distribution is precisely the reason why they accept a seemingly disadvantageous deal.

With respect to institutional choice, I conclude from this discussion that, ceteris paribus, large countries are expected to prefer bilateral over multilateral bargaining so as to take advantage of asymmetries in size. Correspondingly, small countries lean toward multilateralism in order to constrain large countries from using their bargaining power. One caveat is in order regarding the institutional choice of small countries. I have shown above that multilateral bargaining renders it inherently difficult to achieve domestic distributional goals, so small countries have no guarantee that the distributional implications of multilateral bargaining are more favorable compared to bilateralism. The small country’s institutional choice ultimately depends on the relative disadvantages of both bargaining settings. If it can achieve its distributional goals better under bilateral bargaining, notwithstanding its small size, then it will favor bilateralism over multilateralism. When its bilateral bargaining power is too small, the small country will pursue multilateral bargaining.

Based on my review of the five variables and their impact on institutional choice, I hypothesize that the regime type, the legislative organization of the domestic political process, the ideology of political actors, and the size of a country do not have any intervening effects requiring the modification of my model. The constituency of a political actor matters because the larger its size, the more likely it is that a political

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82 See Pahre (2001a) for the importance of non-agreement points in international trade cooperation.

83 A large country should be possible to exert its bargaining power in item-by-item and formula negotiations, so I assume that there is no effect of size on the choice of the bargaining approach. I also assume that there is no independent effect on the application of MFN treatment. The inclusion of MFN provisions is necessary for small and large countries in order to avoid the enforcement problems detailed above (Rixen and Rohlfing 2007).
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actor needs to balance interests and to pursue reciprocity. Asymmetry between countries in terms of size is also expected to influence the choice of the bargaining form. Ceteris paribus, small countries should lean more toward multilateralism than large countries in order to prevent being exploited in asymmetric bilateral bargains.

My arguments are based on theoretical reasoning and existing empirical research. My claims could prove wrong and my model might need more modification and contextualization than I assume here. It will not be possible to systematically test all these assumptions and arguments in the empirical analysis. This would require a large-n analysis in order to have sufficient degrees of freedom (cf., Campbell 1975). However, when possible in my empirical analysis, I will pay attention to the points I have discussed so far and assess whether the claims appear justified on the basis of my own empirical research.

2.6. Competing Explanations

My domestic distributional model is not the only approach that is capable of explaining institutional choice. This makes it necessary to discuss rival accounts and to determine whether my hypotheses are unique. The more the hypotheses that I derived from my model are distinctive, the easier it is to comparatively assess the explanatory power of rival approaches in the empirical analysis (Bennett 2004). In particular, I will discuss five competing explanations. The first rival approach from political science is Neo-Realism. According to Neo-Realism, trade policy is an instrument to achieve external security in an anarchic international system (security approach). The second rival approach focuses on the political actors’ intention to generate tariff revenue (fiscal approach). The first competing explanation from the field of economics maintains that political actors seek efficiency through reciprocal action (efficiency approach). The second rival approach from economics explains reciprocity through balance-of-payments problems (balance-of-payments approach). The fifth competing explanation focuses on the causal impact of ideas on actor behavior (ideas approach). It is evident that I cannot review each rival account with respect to all my hypotheses, since such an extensive discussion is beyond the scope of my thesis. Instead, I assess whether the competing approaches also predict the pursuit of reciprocity, which is the cornerstone of my model from which I derived all my major hypotheses.
Security

Neo-Realism holds that trade policy is a function of concerns about external security (e.g., Gowa 1989; Grieco 1988a, 1988b, 1990; Morrow 1997; Walt 2002, 213-215). There has been an intensive discussion about whether security can be best achieved through the pursuit of relative gains or absolute gains. Neo-Realists argue that states are first and foremost concerned about their survival, which can be best achieved by the pursuit of relative gains. Critics of this position argue that relative gains play a less prominent role in international relations than assumed by Neo-Realists and that absolute gains are more important (Snidal 1991a, 1991b). Others see the two perspectives on gains-seeking as more complementary than conflictual and propose to integrate them into one framework (Berejekian 1997; Powell 1991). This point of view seems to be the most reasonable one, so I assess how the pursuit of relative and absolute gains is related to the pursuit of reciprocity.

Relative-gains maximizers care about their own gains relative to the gains of other actors. In the realm of trade, “gains” refer to the welfare gains from liberalization that can be spent for security and the degree to which the dependency between the trading partners increases (Morrow 1997, 12-13; Odell and Willett 1990, 8-9). It follows that a concession granted to another country entails two positive security externalities: the trading partner becomes more dependent on one’s own imports, and one’s own welfare gains can be spent for security. These two advantages go along with the disadvantage of becoming dependent on another country. Nonetheless, the trading partner has an incentive to give a concession in return in order to reap the welfare gains of liberal trade as well. This means that countries insist on reciprocity if they are concerned about their external security. Moreover, it can be assumed that countries seek specific reciprocity. They cannot afford that the trading partner might receive unreciprocated concessions that impair their own security. These conjectures hold independently of the type of gains that are sought. The pursuit of relative and absolute gains affects what and how many concessions are given relative to the concessions one receives from one’s trading partner, but it is unrelated to the pursuit of reciprocity as such.

Revenue

Another competing approach argues that trade policy and tariff levels are determined by the fiscal concerns of political actors (cf., Pahre 2007). The revenue-generating
character of tariffs lost importance for many developed countries in the course of the late nineteenth and early twentieth centuries because of an increasing reliance on taxes (Bairoch 1989; Brown 2003). But tariff revenue was vital for most parts of the nineteenth century and is still important for less-developed countries today (Milner 1997a), so I will consider this rival explanation here.

One can distinguish specific and ad valorem duties as two different types of tariffs with which revenue can be generated. Specific tariffs take the weight of the imported commodity as the basis for valuation. Ad valorem duties are charged on the basis of the commodity’s value. Both kinds of tariffs have in common that they increase consumer prices and decrease domestic demand for a commodity, which in turn affects the world price (provided that the country is large enough to influence the world price). The change in the price affects domestic demand and the demand in other countries importing the good. In the last end, the tariff revenue of foreign countries is affected by charging duties at home, since the amount of collected revenue depends on the size of the imports and the tariff level (cf., Bagwell and Staiger 2002; Conybeare 1987).

Revenue-generation at home may affect the revenue gathered abroad and vice versa. This interdependence in revenue gathering sets an incentive for trade cooperation because countries must collectively agree on revenue-maximizing tariff levels. It can be assumed that reciprocity matters when political actors aim to collect revenue through tariffs, since the amount of revenue generated depends on the domestic and foreign tariff levels. It is likely that the duties agreed on in an agreement will collectively maximize revenue, but will not maximize the revenue of an individual country. Since a country has an incentive to gain revenue through defection from the collectively agreed-on tariff levels, I hypothesize that specific reciprocity is essential under revenue-seeking. It should be noted that the number of countries that cooperate hinges on the number of states whose tariffs yield an externality for foreign tariff revenue. This makes it impossible to develop an unambiguous hypothesis on whether cooperation will be bilateral or multilateral.

**Efficiency**
The efficiency approach contends that reciprocity is the more efficient mode of action than unilateralism (Wonnacott and Wonnacott 2005). The rationale for this argument is that reciprocal liberalization keeps the terms of trade constant, but increases welfare
compared to unilateralism (Bagwell and Staiger 2002; Bhagwati 1993). While the efficiency approach predicts reciprocal action, one can contend that it does not predict the pursuit of specific reciprocity. Welfare is increased if liberalization is reciprocal, but political actors should not care much whether reciprocity is specific or diffuse. Even when political actors seek reciprocity for reasons of welfare, the non-simultaneous exchange of concessions should not bother them as much as a deficit in domestic societal support.

Moreover, the efficiency argument stipulates that countries will liberalize unilaterally if reciprocity fails (Bhagwati 2002, 4). The reason is that reciprocal liberalization is welfare-superior to unilateralism, which is in turn welfare-increasing compared to the status quo. I have argued above that my political-economy approach does not necessarily rule out unilateralism, so the mere observation of unilateralism is in accord with my domestic distributional model and the efficiency approach. However, the efficiency argument leads one to expect that countries always “go it alone” in order to realize the welfare gains of unilateralism. The efficiency approach would be invalidated if one observes no unilateral action after reciprocal liberalization has failed.

Balance of Payments and Balance of Trade
The second rival explanation from the field of economics focuses on the state of balance of payments that influence a country’s range of feasible macroeconomic policies. A negative balance can be due to two things: a country exports more capital than it imports and/or imports more goods than it exports. In the long run, a negative balance increases inflation and the export of capital. The policy response to a negative balance is to adopt appropriate macroeconomic policies, e.g., an increase in interest rates, which create lower growth and higher unemployment. Because of these effects, the textbook response to a negative balance is little attractive for domestic political actors that are tempted to externalize the costs of adjustment to some degree at least. In the realm of trade, this means that political actors have an incentive to reduce imports by an increase of barriers to trade (Simmons 1994).

Theoretically, countries should be only concerned about their total balance of payments, i.e., the sum of all exports and imports of goods and capital. In practice, political actors often focus on the bilateral balances of payments. Classic examples of concerns about the bilateral balance of payments are the interwar period (cf., Sim-
2. A Model of Institutional Choice

mons 1994) and the United States with respect to Japan in the 1970s and 1980s (cf., Brown 2003, 131-132). Because of this empirical observation, the hypothesis is that bilateral balance of payments problems lead to specific reciprocity and bilateral bargaining. The argument is straightforward: if country A has a negative balance in relation with country B and a positive with country C, then it is obvious that bilateral bargaining serves country A more than multilateral bargaining. Country A can try to negotiate an agreement with B in which the latter makes larger concessions so as to stimulate A’s exports more than its own. A different deal can be struck with country C in another bilateral bargain.84

It seems reasonable to extend this hypothesis to the effects of a negative balance of trade, which is a subset of the balance of payments. The bilateral balance of trade as such is not of economic significance, but the history of trade cooperation shows that political and economic actors are often concerned with the bilateral balances of trade. For example, France and Great Britain had a dispute in the 1870s about which country benefited more from the Anglo-French agreement of 1860 (Marsh 1999). More recent examples include the U.S.-Japanese trade relations (cf., Cowhey 1993) and the worries of the United States about its negative balance with China. In light of this evidence, I expect that the bilateral balance of trade may have the same effect on institutional choice as the bilateral balance of payments.

Ideas

The last rival approach conceives of “ideas” as a variable with causal impact (cf., Goldstein 1988, 1989, 1993; Yee 1996).85 The general argument is that ideas matter. On a standalone basis, this does not say anything about what ideas matter or how. Most generally, one can say that institutional choice is potentially affected by economic and political ideas, which are often intertwined (cf., Brown 2003, chap. 1; Irwin 1996). Economic ideas refer to the dominant paradigm in economics at a certain point in time. For example, the prevalent economic idea in the seventeenth and eight-

84 It is far from clear that B will make larger concessions than A because this will worsen B’s balance of payments. Actually, the history of trade cooperation is full of examples in which countries with a positive balance of payments denied to play their role in the adjustment process (cf., Simmons 1994). But this point does not invalidate the argument that country A prefers bilateral bargaining over multilateralism.

85 Research on the impact of ideas and beliefs is rather heterogeneous compared to the other more or less integrated approaches discussed so far (cf., Yee 1996). The spectrum of explanations ranges from radical constructivist approaches that object the notion of causality to more moderate accounts. The diversity within this field of research makes it difficult to discuss it fully here. I decide to leave the radical accounts aside and focus on the moderate approaches that assign a causal effect to ideas.
eenth centuries was mercantilism (cf., Haight 1941), whereas Keynesianism has been widespread for some decades after World War II (cf., Gourevitch 1986). Examples of political ideas are equally abundant. The sheer number of political and economic ideas makes it impossible to discuss each of them here. Moreover, in many cases it would be difficult to derive clear hypotheses on institutional choice. Nonetheless, existing empirical research and intuition suggest that ideas might matter in international trade (e.g., Goldstein and Keohane 1993), so it appears necessary to pay close attention to the role of ideas in my empirical analysis. I will follow a largely inductive approach with respect to the role of ideas. If ideas mattered in a particular situation, the empirical evidence will indicate what idea shaped institutional choice and in what way.

In all probability, the empirical analysis will not eliminate all but one approach and present a single “winner” at the end. One approach will work better in one case, while another approach might have more explanatory power in another instance. It is equally likely that two or more of the hypothesized independent variables shaped a particular institutional choice in conjunction. Therefore, the empirical analysis is theory-testing and theory-building. The analysis will hopefully end with a more powerful model of institutional choice by paying attention to the context in which a particular approach fares better than another. In the following chapter, I will outline the design and methodological approach with which I am going to test the competing approaches.
3. Research Design and Methodological Approach

This chapter covers the discussion of the research design and the methodological approach with which I test my model of institutional choice. In section 3.1, I will assess my hypotheses with respect to the data that is needed to test them. I argue that the nature of my hypotheses requires that I search for qualitative evidence on the within-case level.

I will discuss the choice of my period of investigation and case selection in section 3.2. I choose cases that cover a broad time span, ranging from 1860 to present. An extensive period of investigation allows me to examine my model under a wide variety of scope conditions that put it to a tough empirical test. Besides the goal of covering a broad period of investigation, two issues play a central role in case selection. First, countries are selected so that a test of the competing explanations is possible. Second, my case selection covers all possible forms of cooperation and bargaining approaches so that I am able to test all my major hypotheses. As I explain in detail below, specific cases of institutional choice by France in the nineteenth century and the United States in the twentieth century fulfill both criteria.

In section 3.3, I discuss the methodological side of case selection and my instrument of causal inference, which is process tracing. The literature on case studies and within-case analysis has burgeoned recently (e.g., George and Bennett 2005; Gerring 2006), but a thorough methodological discussion of how causal inference can be performed in within-case analysis is still missing. I will show that the logic of process tracing, as it is commonly presented in the literature, does not live up to its proclaimed benefits. I propose to create within-case variance in order to meet the standards of causal inference in political science. Furthermore, I will detail my use of primary and secondary sources with respect to the problems of using historical material that Lustick (1996) pointed to in his well-known article.

3.1. What Data is Needed?

It is essential to ask at the outset what type of data one needs in order to test the hypotheses under scrutiny (King et al. 1994, 29). In the section on competing explanations, I have shown that the same outcomes are predicted by my model and by some rival explanations. A quantitative analysis is very likely to produce results that are commensurate with different theoretical approaches, which is a general problem in research on international political economy (cf., Marks and McArthur 1993, 133;
Odell 2004). An additional problem of using quantitative data is that many of the hypothesized independent variables, e.g., concerns about distribution, are difficult to measure quantitatively. On the other hand, the stipulated independent variables and the causal processes leading from the independent to the dependent variables are different in all competing explanations. This renders process tracing and the use of qualitative data highly suitable for my purposes. It allows me to identify the determinant of a specific outcome and to trace the process leading from the cause to the effect in primary and secondary sources (Collier et al. 2004). Moreover, one can discern in within-case analysis whether the outcome is due to causal complexity. This is advantageous inasmuch as it is possible to search for equifinality and interaction effects, i.e., a set of causes that shaped institutional choice in conjunction (Bennett and Elman 2006a, 2006b). In addition, qualitative analysis is superior with respect to the conceptualization and measurement of variables (King et al. 1994, 44-45), what is particularly important for my study that includes concepts that are difficult to measure. I conclude that qualitative within-case analysis serves my theoretical requirements best.86

Besides these reasons, process tracing has additional appealing properties. One of the prime virtues of within-case analysis is the identification of causal mechanisms (Mahoney 2000b), which is, at the same time, one of the major deficiencies of the literature on international political economy (Dai 2006). Research in international political economy often applies quantitative analysis and estimates causal effects that are compatible with different causal processes. Such results create uncertainty about the way in which cause and effect are linked to each other (Marks and McArthur 1993, 106), if there is any causal link at all (Bennett 2004). The application of qualitative methods makes my empirical analysis methodologically complementary to the large body of quantitative research in international political economy that neglects the causal processes leading from cause to effect (e.g., Gawande and Li 2006; Thede 2005).

Moreover, careful within-case analysis circumvents functionalist causal inference and reliance on the concept of revealed preferences. The notion of revealed pref-

86 The application of a rational choice framework in a cases study as well as the interplay between theory development and theory-testing bears similarity to the recently developed analytic narrative project (cf., Bates et al. 1998; Bates et al. 2000; Levi 1999), which, however, is not a remarkable invention. The social sciences proceeded that way long before the invention of analytic narratives (Ekelund and Tollison 2003; George and Bennett 2005). A substantive and substantial disadvantage of analytic narratives is the neglect of comparative theory-testing (Hall 2006).
3. Research Design and Methodological Approach

References means that one can derive the preferences of actors from an observed outcome (cf., Frieden 1999). Even if one assumes that the well-known circularity problem can be circumvented, there are two other problems of using this concept. First, causal inference will be indeterminate when an outcome is compatible with competing explanations (George and Bennett 2005, 28-30), which is often the case in the field of international political economy. Second, Pierson (2000) discusses numerous factors that potentially distort the link between an actor’s preferred outcome and the actual outcome. Causal inference derived from revealed preferences will be wrong in the presence of one of these factors. This point is particularly relevant in research on the choice between bilateralism and multilateralism, since the involved countries have to agree on the form of cooperation. The need to agree collectively on the form of cooperation makes it fallacious to infer the preferences of individual countries from the final decision. These problems are not present in process tracing that allows one to assess empirically whether the actual institutional preference of a country coincides with the outcome.

3.2. Period of Investigation and Case Selection

Using qualitative within-case analysis as the instrument of causal inference almost automatically implies that few cases are examined in sufficient detail. The emphasis on depth at the expense of breadth (cf., Gerring 2004) raises the question of generalizability, because the confidence in the generalization of causal propositions declines with a decreasing number of cases (Rueschemeyer 2003). I aim to achieve a maximum degree of generalizability by investigating a long period of time and by selecting cases carefully.

Period of Investigation

The period of investigation ranges from 1860 to the current Doha Round. This does not imply that my model cannot be extended beyond this period. It is framed in general terms, which makes it possible to apply it to events that took place before 1860. In the course of developing my model, I actually made references to cases of institutional choice in the first half of the nineteenth century that seem to fit into my ex-

87 The circularity problem is in place when the preferences deduced from the outcome are in turn taken to explain the outcome (Frieden 1999). The problem with respect to causal inference is apparently that an explanation so developed cannot be wrong.
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Planetary framework.\(^{88}\) The starting point of my period of investigation is solely determined by the choice of cases, which I will discuss immediately.

I selected a long period of investigation for two reasons: it exposes my model to a tough empirical test, and most comparable existing studies lack a thorough theoretical perspective and/or cover a shorter time span. With respect to the former point, a long period of analysis allows me to test the breadth of a theory in terms of its ability to explain similar events at different points in time. One obtains strong empirical evidence in favor of a model if it explains institutional choice at different points in time that display variation on several dimensions related to international trade cooperation (cf., Gerring 2006, 97-101). For example, the dominant economic paradigms of a certain period of time varied throughout the last 200 years (cf., Gourevitch 1986; Irwin 1996). The second point speaking for an extended period of analysis is that many studies of institutional choice do not have a clear theoretical perspective and/or have a shorter period of analysis (e.g., Brown 2003; Marsh 1999). These studies are valuable in their own right and many of them contribute to my empirical analysis. But a narrow perspective makes it impossible to identify general causal patterns of institutional choice, which is precisely my objective.

Case Selection

This section is exclusively concerned with the substantive side of case selection. The methodological aspect of my case selection strategy will be addressed in combination with my discussion of process tracing in section 3.3.

My period of investigation is commonly divided into three periods in the literature on trade cooperation: 1860 to 1914, 1918 to 1939, and 1945 till present (e.g., Brown 2003; Irwin 1993b; Rogowski 1989).\(^{89}\) I select particular cases of institutional choice falling within each period in order to determine if the model holds in all three stages. The first and the third period are broadly characterized as periods of liberalization, while the second phase is considered one of protectionism. As I will detail immediately, I select my cases so that they capture trends within each period, for example, liberalization from 1860 to the mid-1880s and the return to protectionism from then until the outbreak of World War I (Stein 1984).

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\(^{88}\) For example, the British failure to liberalize trade on the basis of pure bilateralism after 1815 (Bairoch 1989, 8-9)

\(^{89}\) Commercial policy during the World Wars is not analyzed. World Wars are exceptional circumstances where trade policy follows different lines than in peaceful times.
3. Research Design and Methodological Approach

In each case study, I examine the domestic political processes of the country under examination in combination with international bargaining in which the country was involved. An integrated analysis of the domestic and international processes is advantageous for several reasons. First, the interaction between domestic and international politics is central to my model. In the spirit of two-level analysis (cf., Evans et al. 1993; Putnam 1988), it is necessary to conduct a comprehensive study of the processes taking place at the domestic and the international level. Second, in some cases, the form of cooperation was determined in domestic politics, while it was determined in international bargaining in other instances. This dissimilarity between the cases under scrutiny requires flexibility when determining the appropriate level of analysis. Third, a combined perspective allows me to test the hypotheses dealing with bargaining behavior in international negotiations and increases the number of observations. In some instances, the literature might point to the determinants of the bargaining behavior of other countries. Even when the determinants of the institutional choice of third countries are unknown, I will be able to consider the general importance and frequency of bilateralism and multilateralism in international trade.

Two cases of institutional choice by France are examined in the period from 1860 to 1914. Several reasons make France a highly suitable unit for analysis. First, France was a large country displaying a low level of trade dependence. As I explained in section 2.5, trade-related lobbying by economic actors tends to be less relevant to the institutional choice of political actors in large countries. In this view, the relatively small degree of trade dependence renders France a least-likely case. Passing a least-likely test provides strong evidence for a theory (Eckstein 1975; Lijphart 1971). Second, France was one of the big political and military players in the nineteenth century. Political and military affairs mattered more in French decision-making than in smaller countries that were not as deeply involved in “high politics”. The competing explanation derived from Neo-Realism is most-likely to hold for France, again biasing case selection against the confirmation of my model. Third, the bilateral balances of trade fluctuated in the second half of the nineteenth century, providing the basis for a test of

90 It should be noted that the close investigation of a particular case of institutional choice almost inevitably leads to a consideration of more cases, although at less depth than the cases of primary interest. The reason is that the institutional choice of a particular country is not independent of the trade policy of other countries. Therefore, the in-depth treatment of one case covers a discussion of additional informal cases (Gerring 2001, 216).
the balance-of-trade hypothesis.\textsuperscript{91} Fourth, an assessment of the tariff-revenue hypothesis is possible, since the French duties tariffs served to generate revenue. Finally, France displays diachronic variation in institutional choice. As I explain below, this variation is typical for the institutional choice of European countries in the second half of the nineteenth century. Taking these reasons together, I consider it feasible to cautiously generalize the insights I will derive from the analysis of France. I do not deny that there are other variables that probably should be accounted for, but there are limits to the degree to which the analysis of a single unit can ensure generalizability on a multitude of dimensions (Rueschemeyer 2003). This is simply the price one has to pay if one emphasizes depth at the expense of breadth (Gerring 2004, 21-22).

The two cases I examine are the \textit{Anglo-French agreement of 1860}, also known as the \textit{Cobden-Chevalier treaty}, and the \textit{Méline tariff} of 1892. The trade agreement of 1860 replaced pure bilateralism with MFN bilateralism as France’s form of cooperation. In 1892, MFN bilateralism was in turn substituted by a dual-tier tariff, which is similar to pure multilateralism (I will explain this immediately). However, MFN bilateralism was chosen as the form of cooperation in a few instances even after the invention of the double-tariff system. These two institutional choices of France are typical for the general development in Europe in the nineteenth century. Most European countries replaced pure bilateralism with MFN bilateralism in the 1860s, and many of them applied a dual-tier system toward the end of the century (Bairoch 1989; Conybeare 2002).

The classification of a dual-tier tariff with respect to the form of cooperation demands some discussion. A country maintaining a double-tariff system specifies a low and a high tariff for each item in its tariff schedule.\textsuperscript{92} The lower tariff is applied to trading partners that treat the country’s own exports favorably. The higher duty is applied to imports coming from countries that do not grant favorable treatment. Tariffs are set autonomously and fixed by the double-tariff country. This does not mean that there is no bargaining under a dual-tariff schedule. The double-tariff country negoti-

\textsuperscript{91} Balance-of-payments problems were not an issue in the nineteenth because of the stable gold standard (Simmons 1994, chap. 2).

\textsuperscript{92} This means that tariffs vary across items. It is possible to fix a high and a low tariff that are similar for all items. But to my knowledge, no country has ever applied an across-the-board dual-tier system.
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Regarding the form of cooperation, a dual-tier system can be best described as pure multilateralism. The essential feature of a double-tariff schedule is that all countries receive the same duty if they belong to the same category of countries (i.e., states receiving the high or the low tariff). As I explained in section, 2.1, non-discrimination between importers is the essential feature of multilateralism. Actually, a double-duty system bears much similarity to MFN treatment, which is multilateral in effect as well (Schwartz and Sykes 1996). The double-tariff country bargains bilaterally with other countries about which of the two duties will be charged on their imports. Both the lower and the upper tariff are also applied to the imports of all other trading partners, depending on whether they treat the imports of the dual-tier country favorably or not. This means that the lower tariff and the upper tariff effectively represent a multilateral concession. A double-tier system is similar to pure multilateralism, since there are no countries to which MFN treatment could be applied. Admittedly, a dual-tier system is not perfectly similar to pure multilateralism simply because there is a low duty that discriminates against the countries receiving the high tariff. But compared to bilateral bargaining, the degree of discrimination is quite limited because duties are fixed. Therefore, a dual-tariff system is much more similar to pure multilateralism than to any of the other three forms of cooperation.

In sum, the analysis of France serves to test for the determinants of a change from pure bilateralism to MFN bilateralism and from MFN bilateralism to pure multilateralism respectively. I indicated above that France cooperated on the basis of MFN bilateralism in some cases even after the installation of a dual-tariff system. This allows me to assess why MFN bilateralism was maintained in addition to pure multilateralism after 1892.

In the second period, ranging from 1918 to 1939, I examine the Fordney-McCumber Act of 1922 and the Reciprocal Trade Agreements Act of 1934. The United States is an appropriate unit for analysis because it exhibits the properties that I outlined above in the discussion of France. Its trade dependence was relatively low, World War I made the United States one of the key actors in international relations,

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93 As a matter of fact, dual-tariff countries like France and Spain bargained a lot after they had installed a double-duty schedule (cf., Marsh 1999).
94 The conferral of MFN treatment to countries receiving the high tariff is meaningless. This would render the maximum tariff superfluous.
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tariff revenue still played a role during this period, and the bilateral balances of trade with the main trading partners fluctuated. I do not examine the United States in the nineteenth century because it lacks many of these properties in this period, e.g., it was not involved in “high politics.” For a similar reason, I do not select France for the interwar period. Moreover, the membership of France in the European Union for most of the time after 1945 makes it impossible to analyze this country in the third period, simply because the European Commission negotiates on behalf of its member states (cf., Meunier 2005).

Besides, one can make a substantive argument for my case selection. France in the nineteenth century, the United States in the interwar period and, even more so, the United States after World War II were the key economic players in the international system. These two countries shaped the development of international trade to a considerable degree. My choice of cases allows me to shed light on the determinants of substantively important institutional choices in the history of world trade.

The first case of U.S. institutional choice in the interwar period is the Fordney-McCumber Act of 1922. The United States introduced the MFN principle to its trade policy in the course of implementing the trade bill. The act provided for a single, non-negotiable tariff for each item, but authorized the U.S. president to impose a higher duty on imports from countries that discriminated against the United States. The idea behind this provision was to set an incentive for foreign countries to sign a bilateral agreement guaranteeing mutual MFN treatment. In terms of my model, this means that the act introduced MFN bilateralism for pure bilateralism, which was the form of cooperation since the Underwood-Simmons Act of 1913. The Fordney-McCumber Act is generally considered a peculiar piece of trade legislation because of two reasons (Goldstein and Keohane 1993). First, MFN treatment was not combined with bilateral bargaining about tariff levels, as has been the rule in Europe in the nineteenth century. Second, the Fordney-McCumber Act raised tariff levels to unprecedented heights, meaning that the United States combined protectionism with MFN treatment. Both observations seem to stand in conflict with my model of institutional choice and make this trade bill a particularly useful case for analysis.

The second case in the interwar period is the Reciprocal Trade Agreements Act (RTAA) of 1934. Congress did not require the government to apply a specific form of cooperation in the RTAA, but called for item-by-item bargaining, meaning that real bargaining about tariff levels was invented in U.S. trade cooperation. It is true that the
wording of the RTAA suggested the application of MFN treatment. Yet, in the year following the enactment of the RTAA it was far from clear whether MFN treatment would indeed become a part of U.S. trade policy (cf., Tasca 1938). In the end, the U.S. executive decided to follow MFN bilateralism. The goal of my empirical analysis is to discern the reason why Congress insisted on item-by-item negotiations and why the U.S. administration chose MFN bilateralism as the form of cooperation. These two cases make the United States a kind of archetypical country for the interwar period. The 1920s were largely characterized by the protectionism represented by the Fordney-McCumber Act (cf., League of Nations 1945, 11). After the Great Depression, the RTAA gave the impetus for a return to MFN bilateralism and trade liberalization by other countries (Kindleberger 1989).

In the third period, dating from 1945 till 1995, I examine three cases of U.S. institutional choice related to the GATT and the WTO respectively. An analysis of cases falling within the multilateral regime yields many interesting observations that have received relatively little analytical attention compared to regional cooperation outside of the GATT and WTO (e.g., Bhagwati 1990; Mansfield 1998; Mansfield and Milner 1999; Mansfield and Reinhardt 2003). The chapter begins with an examination of the negotiations on the institutional design of bargaining in the GATT. The analysis covers the negotiations between Great Britain and the United States as well as the domestic interaction between the U.S. executive and Congress. The negotiations were primarily held between the United States and Great Britain (Kock 1969). Great Britain aimed to install multilateral bargaining about a formula cut as the new bargaining mode in the GATT. The U.S. State Department, which was in charge of administering the RTAA, was prepared to replace sequential MFN bilateralism and item-by-item bargaining for multilateralism and a formula approach. As I said above, the RTAA mandated item-by-item negotiations, so the U.S. Congress needed to modify the trade bill accordingly in the course of its renewal in 1945. Congress denied approving multilateral bargaining, and the United States and Great Britain finally agreed on simultaneous MFN bilateralism as the institutional design on the basis of which the

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95 The GATT was supposed to become a part of the International Trade Organization, which did not come into existence because of the refusal of the U.S. Congress to ratify the Charter of the ITO (Diebold 1952). The fact that the ITO was not founded is not relevant for my analysis of the negotiations on the design of the GATT.

96 Congress needed to extend the RTAA regularly.
Contracting Parties should exchange concessions. With respect to institutional choice, this case delivers evidence on the preference for multilateralism of Great Britain and the U.S. government, and the substitution of sequential MFN bilateralism, which was the American form of cooperation since the RTAA, with clustered MFN bilateralism.

The second case falling within the third period is the Kennedy Round (1963-1967). In the preface of the round, the Congress adopted the Trade Expansion Act in 1962, which was the first piece of trade legislation that allowed the government to apply a formula approach. The analysis of the process leading to the Congressional support of a formula approach is one important element of this case study. In addition, I will examine the driving forces behind the actual institutional choice at the Kennedy Round. This trade round marks the introduction of multilateral bargaining in the world trade regime. In the course of the Kennedy Round, the Contracting Parties applied a mixed form of cooperation that combined pure multilateralism with MFN bilateralism. In addition, the Kennedy Round witnessed the application of a formula approach, which was combined with item-by-item bargaining later in the negotiations. In sum, the analysis of the Kennedy Round enables me to test for the determinants of a mixed form of cooperation, combining MFN bilateralism with multilateral bargaining, and a mixed bargaining approach.

The third case is the negotiations on the Agreement on Government Procurement (GPA) at the Uruguay Round (1986-1994) and the subsequent negotiations held in the WTO. The Uruguay Round negotiations must be seen in connection with the GPA negotiations at the Tokyo Round (1973-1979), so I will examine those as well (the Tokyo Round GPA is also known as the Code on Government Procurement). The bargaining behavior of the U.S. negotiators at both trade rounds cannot be adequately understood without considering the domestic processes that culminated in the trade acts specifying the terms on the basis of which the U.S. government was allowed to participate at the trade talks. The Trade Act of 1974 conferred on the U.S. administra-
tion a mandate for the Tokyo Round, and the Trade Act of 1979 regulated the domestic implementation of the outcomes, among them the Tokyo Round GPA. An analysis of the Omnibus Trade and Competitiveness Act of 1988 is essential to grasp the contemporary mood of Congress and the behavior of the United States at the GPA negotiations.

The negotiations as such yield evidence on all four forms of cooperation. The rules governing public procurement, e.g., transparency rules, were negotiated multilaterally. Participation in the negotiations was voluntary and many Contracting Parties did not become a party to the GPA. Subscribers to the GPA were free to not apply MFN treatment to non-subscribers. Since many countries refused the conferral of MFN treatment, among them the United States, one finds pure multilateralism and MFN multilateralism in the case of rule-application. In addition, MFN treatment was not mandatory for concessions that were exchanged in bilateral bargaining between parties to the GPA. In the realm of government procurement, “making a concession” means allowing the suppliers of another country to make offers in a specific sector. As a matter of fact, MFN treatment was often withheld by the United States as well as by many other subscribers to the GPA. Consequently, the analysis of the negotiations on concessions delivers empirical evidence on the choice of pure bilateralism and MFN bilateralism.

As I indicated above, the membership of the GPA is relatively small compared to the number of Contracting Parties.\footnote{Only 23 Contracting Parties subscribed to the Uruguay Round GPA (Arrowsmith 2003a).} The limited GPA membership exemplifies the trend that the increasing scope of the GATT and WTO, in terms of issue coverage and membership, went along with a decline in the number of countries subscribing to issue-specific agreements (Lawrence 2006; Winters 1990). The Single Undertaking countered this development by making almost all agreements mandatory for all WTO-members after the Uruguay Round. Government procurement was the only Tokyo Round Code that remained outside of the Single Undertaking, making this agreement particularly interesting for analysis. In addition, the current negotiations at the Doha Round suggest that the Single Undertaking was more an exception than the rule because many countries opted out of the negotiations on issue-specific agreements (VanGrasstek and Sauvé 2006). The case of the GPA can be seen as a representative
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case for the problems of achieving cooperation in an expanding WTO. Table 5 summarizes my case selection.

Table 5: Case selection

<table>
<thead>
<tr>
<th>Period</th>
<th>Case</th>
<th>Institutional Choices</th>
</tr>
</thead>
<tbody>
<tr>
<td>1860-1914</td>
<td>Anglo-French agreement (1860)</td>
<td>sequential MFN bilateralism item-by-item bargaining</td>
</tr>
<tr>
<td></td>
<td>Méline-tariff (1892)</td>
<td>pure multilateralism and sequential MFN bilateralism item-by-item bargaining</td>
</tr>
<tr>
<td>1918-1939</td>
<td>Fordney-McCumber Act (1922)</td>
<td>sequential MFN bilateralism (without bargaining about tariffs) item-by-item bargaining</td>
</tr>
<tr>
<td></td>
<td>Reciprocal Trade Agreements Act (1934)</td>
<td>sequential MFN bilateralism item-by-item bargaining</td>
</tr>
<tr>
<td>1945-1995</td>
<td>negotiations on the GATT (1947)</td>
<td>simultaneous MFN bilateralism item-by-item bargaining</td>
</tr>
<tr>
<td></td>
<td>Kennedy Round (1963-1967)</td>
<td>pure multilateralism and simultaneous MFN bilateralism formula and item-by-item bargaining</td>
</tr>
<tr>
<td></td>
<td>government procurement (1986-1994)</td>
<td>all four forms of cooperation item-by-item bargaining</td>
</tr>
</tbody>
</table>

The cases are selected so that each form of cooperation is covered by at least one case. In the best of all worlds, one would have a case on each form of cooperation and bargaining approach for each of the three periods. This is not possible for two reasons. First, such an extended analysis would be beyond the limits of this thesis. Second, I am not aware of cases for all four forms and bargaining approaches in each period. My case selection simply represents the “limited diversity” (Ragin 2000) one finds with respect to the form of cooperation in international trade (cf., Irwin 1993b). It can be seen that bilateral bargaining and MFN bilateralism in particular, be they sequential or simultaneous, are covered by all seven cases. What seems to be an

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101 For example, I am not aware of a case of MFN multilateralism in the second half of the nineteenth century. It might well be possible that some actors once sought this form of cooperation. But on the basis of the records I studied, I do not know any such case. One might argue that this is not a surprise because multilateralism was an unusual form of cooperation in the nineteenth century. This is not correct, however. The European countries negotiated multilaterally about the terms of a sugar regime for most parts of the second half of the nineteenth century (Bairoch 1989; McClure 1924).
overrepresentation of one form of bargaining reflects the fact that bilateral bargaining prevailed in the history of international trade.

3.3. Process Tracing as an Instrument of Causal Inference

Case Selection on the Dependent Variable

The previous section dealt with the substantive side of case selection. In this section, I discuss the methodological aspect of case selection and the use of process tracing as an instrument of causal inference. As I explained above, I select cases because I know that a particular institutional choice was made, i.e., I choose cases on the dependent variable. It seems necessary to discuss my case selection strategy in detail because of the extensive debate about selection bias due to choosing cases on the dependent variable. In particular, Geddes (2003) and King, Keohane, and Verba (1994) raise strong concerns about selection bias in qualitative research.

Geddes (2003, chap. 3) argues that selection on the dependent variable limits causal inference to the identification of necessary conditions, which is a problem if one is interested in sufficient conditions. In order to test for sufficiency, one should select cases on the independent variable and see whether the outcome is the same in all cases under scrutiny (cf., Ragin 1987). As I explained above, my core independent variables are difficult to measure quantitatively, so it is impossible for me to pick cases on the independent variables. However, it is important to note that the conventional analysis of necessary and sufficient conditions takes place on the cross-case level (cf., Braumoeller and Goertz 2000; Seawright 2002). As is the rule for cross-case analysis, it is impossible to determine if two variables are indeed causally linked to each other. Within-case analysis is superior to cross-case research in this respect, meaning that I can employ process tracing to test for sufficiency. I will be able to conclude that a variable appears to be sufficient if I can show that an independent variable took a specific score, e.g., that concerns about distribution reigned supreme, and if the actual institutional choice was in accord with my model.

King, Keohane, and Verba (KKV) are frequently cited for their warning to select cases on the dependent variable. A closer look at their argument shows that they warn against using so-called *no-variance designs* (Collier and Mahoney 1996), i.e., case selection that does not create variance on the dependent variable. This warning is straightforward from the perspective of KKV. They are concerned with the estimation of the causal effects of independent variables, which is impossible to do if the de-
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The dependent variable does not vary. Table 5 seems to demonstrate that KKV’s warning does not apply here, because my choice of cases appears to generate variance on the dependent variable.

Such a conclusion would not be correct, however, since I do not construct designs that allow for rigorous cross-case inference, for example, in the form of most-different or most-similar designs (cf., George and Bennett 2005, chap. 8). The generation of classic comparative case study designs would at least double my number of cases, which would run counter to my goal of emphasizing depth over breadth. In addition, it would be very problematic to match cases on the independent variables because they are difficult to measure in advance of the within-case analysis. Therefore, my case selection strategy does not follow the logic of cross-case inference, but that of the building-block approach to qualitative research. Each case study represents a building block that tests specific hypotheses of my model. The overall explanatory power of my model is assessed by putting the blocks together at the end of the empirical analysis (cf., George and Bennett 2005, 76-78). The fact that I rely on the no-variance designs that KKV condemn makes it necessary to discuss causal inference in such designs in more detail.

Causal Inference in Process Tracing

KKV and others (e.g., Goldthorpe 1997) claim that one cannot make causal inferences in single case studies because there is no variance on the independent and dependent variables. Moreover, some argue that single case studies produce indeterminate conclusions, meaning that evidence gathered from case studies cannot decide between the explanatory power of competing explanations (cf., Campbell 1975; George and Bennett 2005, 28-30).

Proponents of process tracing reply that the critics confuse “cases” with “observations”, since process tracing may yield multiple observations on the within-case level (George and Bennett 2005, chap. 10; Gerring 2004). An increase in the number of observations is achieved by identifying the causal chain that is constituted by the intervening variables linking \( X \) to \( Y \). An extension of this approach is to process-trace multiple observable implications that are related to the hypothesis of main interest,
which should hold true if the core hypothesis is true as well.\textsuperscript{102} Figure 6 provides a visual illustration of the criticism and the two suggested solutions.

**Figure 6: The n=1 problem and process tracing**

\[ \text{the n=1 problem} \]

\[ X \rightarrow I_1 \rightarrow I_2 \rightarrow \ldots \rightarrow I_n \rightarrow Y \]

\[ \text{process tracing} \]

\[ X \rightarrow I_1 \rightarrow I_2 \rightarrow I_3 \rightarrow I_4 \rightarrow \ldots \rightarrow I_n \rightarrow Y \]

\[ \text{multiple observable implications} \]

\[ X \rightarrow I_1 \rightarrow I_2 \rightarrow I_3 \rightarrow I_4 \rightarrow Y \]

\[ X \rightarrow I_5 \rightarrow I_6 \rightarrow I_7 \rightarrow I_8 \rightarrow Z \]

In contrast to what the proponents of within-case analysis claim, the figure shows that the $n=1$ problem is not solved through process tracing. On the contrary, the identification of intervening variables *multiplies* this problem. Each sequence of the causal chain leading from $X$ to $Y$ represents a new $n=1$ problem because the sequence $X-I_1$ is not different from the sequence $X-Y$. Neither of these causal relationships displays variance on any of the involved variables. Increasing the number of observations through within-case analysis is not a solution to the $n=1$ problem because a causal chain comprises *disparate* observations. As John Gerring points out, each sequence of a causal process belongs to a different population (2006, 78-82). Take my basic causal argument as an example: I assume that the national trade policy has an

\textsuperscript{102} Imagine you contend that concerns about external security are the driving force behind reciprocity. If this claim is correct, a related hypothesis that also should be true is that countries exempt products from trade cooperation that affect their security. For example, a government would forgo importing military goods that it can produce domestically at higher cost. Another complementary conjecture would be that trade relations between allies are deeper than relations between non-allied countries.
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effect on an actors’ income, which determines the change in support for political actors who make the institutional choice. This argument involves three sequences: from trade policy to income, from income to altered support, and from change in support to institutional choice. Each sequence belongs to a different class of observations. The first sequence belongs to the population of observations on the effect of trade on the income of economic actors. The second sequence falls into the group of observations covering lobbying by private actors. The third observation belongs to the class of observations on political actors’ responsiveness toward lobbying.

Because of this reason, an increase in the number of observations implies something different in qualitative and quantitative research and has different methodological implications.\(^{103}\) It follows from this that one produces \(k+1\) \(n=1\) problems if one discerns a causal process with \(k\) intervening variables. The situation does not improve if one derives multiple observable implications on different causal processes. Each observable implication refers to a different causal chain, so each additional causal chain further increases the \(n=1\) problem. It should be further noted that these findings apply to theory-testing and theory-building in within-case analysis. Each causal claim, be it made in theory-testing or theory-building, rests on the argument that a different outcome would have occurred if the score on the independent variable had been different. In order to substantiate such a claim, one needs to observe covariation on the variables on interest (Gerring 2005), which I have shown to be absent in ordinary process tracing.

**Within-Case Variance**
The basis for causal inference in case studies can be strengthened by creating *within-case variance*. Causal inference through within-case variance involves deriving causal propositions on the basis of hypothetical variance on the main independent variable. The empirical analysis serves to empirically test the theoretical expectations that were derived from varying scores of the same independent variable. In essence, within-case variance analysis means generating multiple observable implications on the within-

\(^{103}\) Actually, the defenders of within-case analysis are aware of this difference between qualitative and quantitative research when criticizing KKV for their understanding of process tracing. KKV conceive of process tracing as a method for making observations that are aggregated at a higher level of analysis in order to make them useful for causal inference (King et al. 1994, 226-228). I agree with the criticisms of this argument of KKV and with the claim that process tracing serves to identify a causal chain and to make theoretical sense of this process (George and Bennett 2005, 176-177; Tarrow 1995, 472). However, the critics of KKV in turn fail to recognize the problems of causal inference in process tracing. Ironically, the convincing rebuttal of KKV’s notion of process tracing exposes it to KKV’s criticism of no-variance designs that was discussed above.
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case level. The important difference between my approach and a conventional within-case analysis is that I create variance on a single independent variable. The current studies on within-case analysis focus on the maximization of different testable propositions and the development of unique hypotheses, which I have shown to be insufficient to meet the covariational standard of causal inference.

Within-case variance can be generated on the diachronic and the synchronic dimensions. In synchronic within-case variance designs one identifies two entities that, taken together, display variance on the independent variable under examination. Most often, process tracing is concerned with the driving forces behind a particular decision, i.e., one aims to expose the motivations of persons. In this context, within-case variance requires finding two people that held different attitudes and detecting the motives behind their diverging opinions. This should generally not be a problem because political decisions are always contested and pit actors with contradicting preferences and opinions against each other.

I will clarify this argument with an example of my hypothesis on MFN treatment. Assume that you examine a country that substitutes protectionism and a discriminatory trade policy with trade liberalization on the basis of MFN treatment. Ordinary process tracing would involve to identify the actors that made the decision, and to discern their arguments and the positions they took in the political process. Process tracing of this kind relies implicitly on a no-variance design because one only examines the behavior of liberal political actors. Even if one can discern good evidence in favor of the domestic-support explanation, one can make a much more powerful claim if one makes use of within-case variance. Such variance can be generated by identifying a protectionist political actor and elucidating his position on MFN treatment. If the behavior of the protectionist conforms to the expectations of the domestic-support model, too, one can make a more credible causal claim compared to no-variance process tracing.

It can be seen that the creation of within-case variance does not demand increasing the number of cases, since a within-case variance design generates variance on the independent variable. It does not generate variance on the dependent variable because there is only one case for which one observes a score on the dependent variable (in my analysis, this is the institutional choice that was made). Otherwise, the design would be equivalent to a cross-case analysis, and one would compare two cases that both yield observations on the independent and the dependent variable. One might
consider this a deficiency of within-case variance analysis, because this introduces some degree of uncertainty about whether variance on the independent variable would indeed lead to variance on the dependent variable. With respect to the above-mentioned example, this would mean that one would be uncertain about whether the protectionist actors would have also decided against MFN treatment if they had had the authority to make a decision.

In relation to no-variance designs, however, within-case variance analysis is superior in two respects. First, within-case variance design allows one to observe variance on the independent variable and to trace some of the observable implications that follow from this. For example, one can elucidate the reasons because of which protectionist actors refused the application of MFN treatment and see whether these conform to the theoretical expectations. Second, one can cross-validate one’s findings by comparing the two causal processes that constitute the within-case variance design. This means that one can be confident that a liberal attitude is causal for the conferral of MFN treatment if it can be demonstrated that protectionist-minded political actors opposed non-discriminatory treatment, and vice versa. No such opportunities for cross-validation exist in no-variance designs, rendering within-case variance analysis methodologically superior.

Diachronic within-case variance is created by extending the period under investigation. Within-case variance is generated by finding an actor (or comparable actors) that displays variance on this variable across time. Taking the example of MFN treatment, this involves identifying an actor who was protectionist at $t_1$ and turned liberal at $t_2$. One finds strong empirical support for the hypothesis that liberalism leads to non-discrimination if one can observe that the attitude toward MFN treatment altered in tandem with the change in the trade-policy preference, and if one finds intervening variables that support the claim that the trade-policy preference is systematically linked to the attitude toward MFN treatment.104

One beneficial feature of within-case variance analysis compared to cross-case analysis is the enhanced comparability of the examined causal processes. By defini-

104 I have shown above that synchronic within-case variance analysis does not require increasing the number of cases. The situation is the same in diachronic within-case analysis if one finds a case that generates variance on the independent variable, but that does not yield two observations on the dependent variable. This means that one only observes one institutional choice. On the other hand, the within-case analysis will be transformed into a cross-case analysis when one identifies a counterfactual causal process at the end of which one observes a score on the dependent variable. Such designs have their own merits and disadvantages, but it is not a within-case variance analysis anymore.
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tion, the causal chains that are compared fall within the same case in within-case comparisons. If one examines the application of MFN treatment of a particular country, all country-related variables, e.g., its position in the international system or level of development, are necessarily identical.\textsuperscript{105} Of course, there will still be many other non-country related variables that can cause variance between the causal processes. But these variables are also a problem in cross-case comparisons, which additionally suffer from variance on variables that vary across cases (Gerring 2001, 210-218). An additional advantage of within-case variance is that it tends to be more efficient in terms of required research resources. It is easier to collect and examine sources on different persons in the same case compared to process tracing in a cross-case design with which one compares actors that operate in very different contexts.

One further point deserves a brief discussion here. George and Bennett and others (e.g., Hall 2006) argue that one should specify the full causal process \textit{in advance} of the within-case analysis. I admit that the theoretical explication of the full causal process is a laudable effort for theory-building. I think, however, that one demands too much from the case study researcher engaged in comparative theory-testing. The reason is that a thoroughly conducted within-case analysis is most likely to elucidate observations that can be unequivocally attributed to one of the rival explanations (Collier et al. 2004, 258-262). Imagine that you observe a political actor who revokes a previously offered concession in international negotiations because of the protest of concerned domestic producers. This finding is undisputable evidence in favor of the domestic support model, even if one would not have theoretically derived an according proposition prior to the within-case analysis.\textsuperscript{106} I think that it is sufficient to combine a deductive and an inductive component in comparative theory-testing. The deductive element refers to the specification of the independent variables that allegedly influence the outcome. The inductive aspect is captured by the within-case analysis. It serves to determine inductively the causal chain that leads from the hypothesized independent variables to the dependent variable. The competing independent variables

\textsuperscript{105} This point shows that the identification of multiple causal processes means to increase the number of \textit{observations} and not the number of \textit{cases}, meaning that the creation of within-case variance does \textit{not} transform a within-case analysis into a cross-case analysis (cf., Gerring 2004).

\textsuperscript{106} Moreover, the specification of the full causal process a priori can be a daunting task. As George and Bennett point out, causal processes might be characterized by \textit{equifinality}, meaning that different causal chains connect the same \textit{X} to the same \textit{Y}. If deductive theorizing is taken seriously, one needs to theorize about \textit{all} possible causal processes. Depending on the dependent and independent variables under scrutiny, this can be a very difficult endeavor.
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that are specified at the outset guide the researcher in process tracing and should be sufficient to link the empirical observations to the concepts and explanations that are tested (cf., Adcock and Collier 2001; Collier et al. 2004).¹⁰⁷

Finally, I will briefly detail what sources I use in my empirical analysis and how I deal with them. I draw on primary sources and the rich secondary literature on trade cooperation. Lustick (1996) warns us that historical work adopts a specific perspective on a subject matter (cf., Büthe 2002; George and Bennett 2005, chap. 5; Trachtenberg 2006). Some historical details are highlighted while others are not addressed, so that the analysis of historical sources might lead to a biased narrative that produces invalid conclusions. I address this problem in one way suggested by Lustick (1996, 615-616), namely, to make use of multiple sources in order to correct for probably existing biases in one source.

¹⁰⁷ It might happen that one makes a finding that is compatible with several competing explanations. In this instance, inductive within-case analysis will not allow discriminating between the rival approaches. The situation, however, will not be different if one proceeds as recommended by George and Bennett. They emphasize that two competing theories might make overlapping predictions with respect to parts of the causal process. Thus, ambiguous empirical findings are a problem per se and do not require extensive deductive theorizing.
4. Trade Cooperation after 1860

In this chapter, I will analyze two cases of institutional choice of France in the second half of the nineteenth century. The first case is the Anglo-French treaty of commerce of 1860 through which France replaced pure bilateralism with most-favored-nation (MFN) bilateralism. The second case is the revision of the French tariff in 1892 when pure multilateralism replaced MFN bilateralism, whereas I will show that few bilateral MFN treaties were also signed in the years after 1892.\textsuperscript{108}

The empirical analysis shows that the institutional choice of France can be largely explained on the basis of my model. The decision to conclude bilateral treaties in the 1860s can be explained by the need to carefully balance the domestic distributional effects of trade cooperation. The domestic opposition from import-competitors was strong. Napoleon III, the French emperor at the time, needed to match this opposition with support from exporters, input-users and consumers in order to protect his position as head of state. The application of MFN provisions in bilateral agreements has its roots in the insight that a liberal trade policy cannot be combined with discriminatory treatment, which is equivalent with the absence of MFN treatment. The protectionists were primarily concerned with preventing trade liberalization at all, so they did not particularly criticize the specific form of bargaining and MFN treatment in 1860.

This was different in the following three decades. I show that the protectionist sentiment continuously grew in size and strength between the early 1870s and the 1890s. Besides the fact that the protectionists were always well organized in France, the reason for this is that more and more domestic producers felt the impact of the depression that started in the 1870s. It can be demonstrated that alongside this development, the demand for the abandonment of MFN provisions and the invention of a two-tier tariff increased because of the distributional effects of MFN treatment. Liberal economic and political actors continued to argue for MFN bilateralism and were successful in defending the existing form of cooperation until the enactment of the Méline tariff. A dual-tariff schedule was finally introduced in the course of the tariff revision of the 1890s, so the replacement of bilateral bargaining by pure multilateralism

\textsuperscript{108} It should be remembered that a two-part tariff, which was installed in 1892, is equivalent to pure multilateralism (see section 3.2).
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was motivated by protectionist concerns. This finding does not corroborate my hypothesis on the application of pure multilateralism.

However, even the undoubtedly protectionist French government of the 1890s was eager to keep the opportunity to conclude MFN bilateral agreements and was eventually successful. This decision can be traced back to the executive’s goal to at least partially accommodate the economic actors benefiting from exports and cheap imports. As a matter of fact, many of France’s trading partners refused to grant preferential treatment for the lower of the French dual tariffs and insisted on bilateral bargaining on trade concessions. This observation supports my hypothesis on the determinants of MFN bilateralism. I conclude that the institutional choice of France can be largely explained on the grounds of my model.

4.1. The Anglo-French Agreement of 1860

French Trade Policy in the First Half of the Nineteenth Century

The French turn toward a liberal trade policy that finally came to fruition in the Cobden-Chevalier agreement was preceded by a long period of a strictly protectionist trade policy (cf., Moye and Nogaro 1910). The protective system that ruled France in the first half of the nineteenth century has its roots in commercial policy during the Napoleonic Wars. Taxes were increased and import-prohibitions substantially extended at the beginning of the nineteenth century, partly as a means to finance the war and partly as an instrument of warfare. The end of the Napoleonic Wars opened the way for trade liberalization, yet it didn’t take place. French producers that had benefited from protectionism during the wars became accustomed to it. They pushed for the preservation of the protective system and successfully received protection until the 1830s (Haight 1941, 14-17).

In the 1830s and 1840s, the French executive tried to liberalize trade policy through commercial treaties. But the negotiations often failed or treaties were not ratified because of massive opposition by domestic producers. The few agreements that came into effect did not have much economic impact. In the beginning of the 1840s, the executive was supported by an evolving free-trade movement that comprised the export-oriented chambers of commerce and French economists embracing the idea of free trade. The free-trade movement organized to lobby for a more liberal trade policy and tried to influence public opinion through its own publications. As a response to

109 Recall that a dual-tariff system is similar to pure multilateralism (see section 3.2).
this movement, the protectionist interests organized themselves in an Anti Free-Trade League, called the “Association pour la défense de travail national”. The League also lobbied and used their own publications to influence the public opinion and policymakers. The protectionist groups that wanted to keep the domestic market for themselves prevailed in the struggle about the future course of trade policy in the 1840s. The revolution of February 1848 finally led to dissolution of the free-trade movement and brought Napoleon III into power (Ashley 1904, 287-295; Haight 1941, 26-28).

**Attempts at Unilateral Liberalization in the 1850s**

There is disagreement in the historical literature about the intrinsic trade-policy preference of Napoleon III. While some argue that he was not truly committed to liberal trade (e.g., Iliasu 1971), most scholars describe him as a man leaning toward liberalization (e.g., Dunham 1971 [1930]). Two reasons for his commitment to liberal trade are generally mentioned. First, Napoleon III recognized that protectionism increased product prices for consumers. A more liberal trade policy was sought in order to reduce domestic prices and increase the welfare of consumers. Second, protectionism sheltered domestic producers from foreign competition. This reduced their efficiency and in turn set limits on their competitiveness in foreign markets and the national economic development.

The emperor’s trade-policy preference was, however, in conflict with the trade policy preferred by the well-organized domestic producers that wanted to maintain protectionism (Haight 1941, 33). Napoleon III first tried to realize his trade policy goal by unilaterally reducing the general tariff. The French Assembly had to agree to any revision of the general tariff. The French Assembly had to agree to any revision of the general tariff. The first attempt of the French executive was a bill eliminating all prohibitions, export duties, and prohibitive tariffs. The protectionist forces that blocked trade liberalization in the 1830s and 1840s were also successful on this occasion and the bill was clearly voted down in parliament in 1851. In 1852, the executive asked the Conseil Supérieur du Commerce, an advisory board on commercial matters, to propose plans for tariff reform (Dunham 1971 [1930], 19). The board recommended tariff cuts on a broad array of products. These cuts were implemented by executive decree in the mid-1850s. The ability to revise the trade policy by decree dated back to two bills from 1814 and 1836. The government’s authority to act by decree was, however, limited to foodstuffs and raw materials. Referring to these two
laws, the executive lowered duties on several raw materials and foodstuffs in the mid-1850s (Amé 1876, chap. 12).

Notwithstanding that this move achieved trade liberalization to some degree, the government felt that a bolder move was necessary. This, however, could not be done without parliamentary involvement. In combination with the enactment of the governmental decrees, the executive submitted a bill to parliament in 1856 intending to replace prohibitions by tariffs on a range of manufactured goods (Ashley 1904, 299). The protectionist producers strongly opposed this bill and started to lobby against it. Industrial chambers and single producers sent petitions and statements about the allegedly hazardous effects of trade liberalization to the executive, members of parliament, and particularly to the members of the parliamentary committee that dealt with the bill. In addition, the producers tried to get the workforce on their side by exaggerating the government’s plans and its effects in the form of mass unemployment and declining wages (Dunham 1971 [1930], 21-23). In the end, Napoleon III gave in and announced that the executive would not attempt to modify the French tariff until July 1, 1861 (Iliasu 1971, 79).

However, it was only 1859 when the executive made another attempt to somewhat lift the protectionist grip on the French economy. It proposed to install an enquête in combination with a bill that would eliminate some of the supposedly less controversial prohibitions. A second enquête covering more domestically controversial products was planned for 1861. The executive had to renounce its plan because of domestic opposition and recent developments in foreign policy that required its full attention (Dunham 1971 [1930], 25-27). Ironically, the foreign policy problems later turned out to be quite helpful for the trade policy objectives of the executive.

The Prelude to the Anglo-French Treaty of 1860
At the end of the 1850s, France annexed a couple of municipalities in Northern Italy with the goal of promoting Italian unity. France’s political and military counterpart was Austria-Hungary, which wanted to prevent the unification of the Italian territories. Great Britain was not directly involved in this dispute and supported Italian unity, but it was uncertain about the foreign policy aspirations of Napoleon III and his attitude toward Great Britain in particular (Marsh 1999, 8-16). Great Britain and

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110 An enquête is a commission that is established to examine a specific issue.
France sought a trade agreement as a manifestation of the peaceful relationship between the two countries.\footnote{See Iliasu (1971) and Ratcliffe (1975) for a more detailed treatment of the political background of the negotiations.}

The executive of Great Britain did not attach much intrinsic commercial value to the agreement, since it was deeply committed to the idea of unilateral free trade. The leadership of Great Britain opposed bargaining due to the failure to liberalize international trade via reciprocal bargaining between 1815 and the mid-1840s and the good experiences it made with unilateral free trade thereafter. However, the political value of a trade agreement outweighed the aversion to commercial bargaining (Bairoch 1989; Marsh 1999, 9-13).

The chance to come to a trade agreement with Great Britain was endorsed by the French executive in order to implement a trade policy reform that could not be reached otherwise (Ashley 1904, 302-303). The basis for trade liberalization was the revision of the French constitution in 1852. In this year, Napoleon III could finally achieve, against strong political opposition, a legislative majority for a constitutional provision allowing him to conclude trade agreements that need not to be ratified by the two parliamentary chambers (Brandt 1896, 119).

On the French side, the negotiations were strongly welcomed by Michel Chevalier, who became chief negotiator of an Anglo-French agreement. Chevalier was a leading economist in France in favor of the idea of liberal trade and served as an economic advisor to Napoleon III (see Dunham, 1971 [1930], chap. 2m for a treatment of Chevalier’s person). The French economist believed that the French producers needed to experience more competition than allowed under the French protective system. Moreover, he endorsed the argument that liberal trade would increase overall welfare. Chevalier was, however, quite aware of the domestic political problems of tariff reform. As he noted in a speech in 1850, “We [Chevalier and other economists] have said that it is necessary to proceed cautiously with due consideration of the interests involved; that the transition from the now [among economists] discredited system of protection to the only good system, that of free trade, must be made gradually. All the governments [in Europe] are doing this”. He further argued that protection need to be eliminated “[…] because other nations have given us the example of abandoning it. […] The only possible reply to this is reciprocity. After that the protective
system in France will collapse like a house of cards“ (cited after Dunham 1971 [1930], 35-36).

Chevalier kept in personal contact with Richard Cobden throughout the 1850s. Cobden maintained close ties to the British government and later helped it negotiate the Anglo-French agreements (Marsh 1999, 8). Chevalier and Cobden discussed commercial events in France and Britain, and the political and economic relation between the two countries in their exchange of letters. Chevalier first brought up the idea of a trade agreement in 1856. Referring to the constitutional reform of 1852 and the domestic political constellation, Chevalier wrote: “I repeat that we shall not enter seriously and effectively on the path of free trade, however advantageous that might be for France, except through a treaty of commerce signed with a foreign power. The Corps Législatif [the French parliament] knows very little about these matters and is led by a number of prohibitionists who will object to everything if the question is submitted to the Chamber, and the only way to avoid submitting it is to proceed through a treaty” (cited after Dunham 1971 [1930], 44). Chevalier further noted that “a substantial reduction of your duty on wine would be an argument with which our government could reply to the clamor which the people might raise, and which the Corps Législatif certainly would raise, over a noteworthy reduction of our duty on iron, over the removal of the duties on coal, and over the repeal of all the prohibitions” (cited after Dunham 1971 [1930], 45). Lord Palmerston, head of the British executive in 1856, refused to negotiate about an Anglo-French agreement on this ground. The British duty on wine generated much revenue Great Britain was not willing to forego at that time (Dunham 1971 [1930], 47).

Three years later the mood was more in favor of a trade agreement on the side of Great Britain. The British executive felt the need to improve the political relations with France. Moreover, some members of the British House of Commons believed that the commercial relations between the countries deserved some stimulus as well. Chevalier, who closely followed the development in Britain, seized the opportunity in 1859 and urged Cobden to lobby for an agreement vis-à-vis his government. Cobden talked to Gladstone, who was Chancellor of the Exchequer and responsible for the British tariff. Cobden knew that he had to convince Gladstone to enter into bargaining at all because of his deep-rooted commitment to unilateral free trade. Cobden made clear to Gladstone that “my good friend M. Chevalier insists very pertinaciously that the Emperor cannot reduce his duties unless you help him by a corresponding move-
ment” (Dunham 1971 [1930], 50-51). Gladstone was eventually convinced by Cobden’s argument and approved the initiation of negotiations.

It was only afterward that Chevalier started to approach members of the French executive and lobby for a commercial agreement in his own country. Chevalier first consulted Rouher, then Minister of Commerce, who recognized the economic utility of an Anglo-French commercial agreement. Subsequently, Chevalier and Cobden talked directly to Napoleon III at the end of October 1859 in order to gather his support for a treaty (Dunham 1971 [1930], 56-57). In this meeting, Napoleon III indicated that he embraced the idea of free trade, but that he feared the reactions of the protectionist groups. The only way to liberalize trade was to conclude an agreement that did not require parliamentary approval. The French emperor further argued that he needed concessions from the United Kingdom in order to cut tariffs at home. Cobden responded that England could offer reductions on French luxury articles, yet these concessions could not be granted exclusively to France since this would run counter to the British trade policy of non-discrimination. In addition, Napoleon III sought Cobden’s advice on how to counter the opposition of protectionist groups against a trade agreement. Cobden recommended proceeding like Britain in the 1840s, i.e., by offering French businesses threatened by imports compensation through financial assistance, an idea that was also generally supported by many liberal economists in France (Haight 1941, 25). Although Napoleon III was anxious about the domestic political response toward his commercial plans, he supported the idea of a commercial treaty that would not only improve the political relations with Britain, but also have economic effects that were unachievable otherwise. Anticipating massive domestic protests against a commercial treaty, Napoleon demanded that his personal staff assess the effects of a trade treaty on public opinion (Dunham 1971 [1930], 58-66).

In addition to the problems on the French side, there also occurred some complications on the side of Great Britain. Cobden warned Gladstone that Napoleon III could only enter into a trade agreement with the United Kingdom if he received substantial concessions that would generate support from the beneficiaries of French trade liberalization, saying, “If the Emperor is to do anything great you must supply him with this motive, and, with this excuse to his own people, and with the sympathy and aid it would bring him from Paris, Lyons, and the wine region, he could do anything he liked in the way of the reduction of duties with safety to himself” (cited after Dunham 1971 [1930], 67). “Paris, Lyons, and the wine region” refers to the export-
dependent areas that would benefit from British trade reductions. However, a substantial reduction of the British duty on wines was not feasible for Gladstone, since the tariff on wine created much revenue. To solve this problem, Gladstone considered diversifying the tariff schedule on wine. Light wines having a relatively low level of alcohol, which were mainly produced in France, should be imported on more favorable terms than heavy wines, which were most frequently imported from Spain and Portugal (Dunham 1971 [1930], 67). As I show below, this issue became tremendously important in the later negotiations.

The Start of the Negotiations
With this proposal in mind, Cobden returned to Paris and continued to negotiate about the items to be included in the treaty and the tariff reductions applying to these items. At this stage, the negotiations were still kept secret in order to avoid resistance by protectionist groups as long as possible. This required keeping some members of the French cabinet as well as parts of the Ministry of Commerce in the dark. At the end of December, Napoleon III had finally made up his mind fully support a treaty with Great Britain. The French emperor, however, suddenly adopted a less liberal position because of consultations with the protectionist ministers who had been formerly kept away from the negotiations. This change in position showed itself in new terms in the agreement, terms that were more protectionist than the original proposals (Dunham 1971 [1930], 71-72).

Despite these complications in the early stage of the negotiations, there was consensus among the proponents of change that a treaty represented the only feasible means to liberalize trade. France and the United Kingdom both considered unilateral action disadvantageous. The liberal ministers opposed moving ahead by reducing trade barriers by decree while at the same time waiting for Great Britain to implement its changes in a lengthy political process involving the British parliament. On the other hand, any involvement of the French parliament was out of the question. In all probability, it would block tariff reform, meaning that Great Britain and France had no other option than to conclude a treaty (Dunham 1971 [1930], 69-74).

Now that the French cabinet was fully informed about the commercial negotiations with Great Britain, Napoleon III aimed to conclude the treaty as soon as possible, since he expected that the protectionist forces in France would raise their voice soon. Protectionist forces in France indeed responded quickly to the announcement of
negotiations by organizing themselves and lobbying against the treaty. After the protectionist ministers failed to bring the commercial treaty down in the Cabinet, they tried to convince Napoleon III to send the treaty through the French parliament. The empirical record is incomplete here, so it is not known how the protectionists approached the French emperor. But in the second week of January, 1860, Rouher asked Cobden what the executive of Great Britain thought about the involvement of the French parliament. Cobden refused to have this idea discussed by the cabinet for the reasons mentioned above and objected to involving the French legislature for two reasons. First, it was unlikely that the treaty would pass both chambers, even if the treaty was submitted as a take-it-leave-it bill. Second, based on the past experiences with the protectionist members of parliament, Cobden expected a massive delay of the parliamentary process that might endanger the enactment of the treaty. On the other hand, he expected the process in Great Britain to go smoothly enough that the tariff reductions could be implemented quickly. Although Britain intended to reduce its duty reductions on a non-discriminatory basis, they were unwilling to fulfill their treaty obligations before the treaty became law in France. In the end, Cobden was able to convince Napoleon III and the idea was dismissed.

Soon after this defeat, the protectionist ministers in the French cabinet reminded Napoleon III that he had promised in 1856 not to change tariffs before 1861, and that he would install an *enquête* assessing the competitiveness of the French industry. As was the case in the 1850s, the protectionists hoped that they could delay the negotiation with Great Britain and mobilize the protectionist forces in France so that the terms of the agreement could be diluted. But Napoleon III had learned his lesson in the 1850s. He agreed to the *enquête* and installed it immediately so that the protectionists did not have sufficient time to organize. Moreover, Napoleon appointed the members of the *enquête*. He kept the committee small in terms of membership, and the majority of the proponents was liberal minded. The *enquête* quickly finished its business and was dissolved without achieving anything from the perspective of the protectionists (Dunham 1971 [1930], 80-83).

After the protectionists in France once more experienced a defeat, Napoleon III turned to the public in the form of a letter. In this letter, he outlined his economic policy and prepared the public for the liberal turn in French trade policy. In particular, the letter says: “For a long time, the principle has been proclaimed that the multiplication of the means of exchange increases the prosperity of trade; that without competition
industry remains stationary and prices continue high, which prevents an increase in consumption; that without the development of capital through industrial prosperity agriculture itself will remain primitive. It follows, therefore, that before developing our foreign trade through the exchange of goods, we must improve our agriculture and free our industry from all obstacles within the country which put it in a disadvantageous position. At the present time, not only are our large enterprises hindered by a mass of restrictive regulations, but the prosperity of our laborers has not been developed as far as in a neighboring country. Only a good general system of political economy, therefore, can, by creating wealth, make comfort widespread among the working classes. [...] In order to encourage industrial production we must free from all duties those raw materials which are indispensable to industry, and as an exceptional measure we must lend it at a low rate of interest capital to help it improve its equipment, as has already been done for agriculture with respect to drainage. [...] The encouragement of trade through the multiplication of the means of exchange will follow as the natural consequence of these measures. The progressive decrease of the tax on foodstuffs of general consumption will, then, be a necessity, as will the substitution of the protective duties for the system of prohibitions which restricts our commercial relations. Through these measures agriculture will find a market for its products; industry, freed from obstacles within the country, aided by the government, stimulated by competition, will fight successfully against foreign goods, and our commerce, instead of languishing, will have a new and vigorous growth” (cited after Dunham 1971 [1930], 83-84).

In combination with a less restrictive national economic policy, Napoleon III argued that a liberal trade policy would increase the welfare of the working class, enhance the competitiveness of French industry, and thereby further exports. Moreover, it should be noted that the letter appeals to the three groups that would benefit from the Anglo-French treaty: consumers, exporters, and input-users.

However, the Emperor was not blind to the adjustment costs of a liberal trade policy. He announced that the government would grant loans aiming to foster the competitiveness of particular sectors and to temporarily compensate import-competing industries (Dunham 1971 [1930], 84). The rationale for this step was partly politically and partly economically motivated. Politically, Napoleon III aimed to soften the opposition to trade liberalization. Moreover, he hoped that the general public would at least partially support his plan instead of aligning themselves with the pro-
tectionist producers, as was regularly the case in the previous decades. The loan, which was proposed by Chevalier, played a decisive role in the Napoleon’s decision to pursue a change in trade policy (Dunham 1924). With respect to the economic side, Chevalier and Napoleon believed that a liberal trade policy needed to be accompanied by financial assistance because the British producers were much more competitive than the French. In order to avoid severe disturbances of the domestic economy, it was considered necessary to dampen the economic impact of increased foreign competition (Dunham 1971 [1930], 144).

While Napoleon was paving the way for trade liberalization in France, there were some problems in Britain. At the end of the 1850s, Great Britain pursued a liberal trade policy with only a few tariffs in place, which, however, generated much revenue (Irwin 1993a). Although the British cabinet formally approved official negotiations with France at the beginning of the 1860s, some members of the government considered it a problem to reduce the tariffs that contributed much to the British revenue. In the words of Gladstone, Chancellor of the Exchequer and responsible for matters of tariffs and revenue, “The idea in possession of the public is [that of a] French invasion. A majority of the Cabinet is indifferent or averse. It is no small thing to get a Cabinet to give up £1,500,000 or £2,000,000 of revenue at a time when all the public passion is for enormous expenditure, and the case is beset with great difficulties. […] It has required pressure, but we have got sufficient power now, if the French will do what is reasonable” (cited after Dunham 1971 [1930], 88). Although Great Britain generally pursued unilateral free trade, in this case British action was made contingent on “reasonable” action on the side of France. In particular, two issues were contested between France and Great Britain. The first was the British tariff on wine that generated much revenue for Great Britain but at the same time was too high for French wine importers. The second contested issue was the period of time in which France would phase in its tariff cuts (Dunham 1971 [1930], 88).

Regarding the first issue, two problems made it difficult to cut the tariff on light wine imported from France. First, Great Britain wanted to forego as little revenue as possible. This required discriminating between light wine, imported from France, and heavy wine, which was primarily imported from Spain and Portugal. This step was welcomed by France since it effectively discriminated in favor of its wine. After some disagreement about where to set the dividing line, Great Britain finally fixed it at a higher level of alcoholic content than originally desired, meaning that it sacrificed
more revenue than intended. The second problem was related to the British wine importers. The government of Peel had promised the wine dealers to compensate them for any tariff reduction resulting from a treaty. This meant that the current government would have to give up tariff revenue and compensate British wine importers. Gladstone was unsure whether the cabinet and the parliament would be prepared to carry these costs. He aimed to avoid this problem by reducing the wine-tariff through a legislative decision that would be made in combination with the ratification of the treaty since this would have relieved the British executive from paying compensations. The French executive opposed this, since insisted on including the wine concession in the treaty. Cobden finally conceded as he realized that the exclusion of wine would put the whole treaty at risk (Dunham 1971 [1930], 89-92).

A second major problem to be overcome in the negotiations was the phasing in of concessions. Napoleon III was bound by his pledge not to alter tariffs before July 1, 1861. Consequently, the French executive intended to phase in its concessions after July 1, 1861. The French cabinet effectively wanted to sign two agreements, the first being a general treaty of commerce that was to be signed in 1860. This treaty should not include any specific commitments for France since this would rouse much public opposition against commitments that could only be realized a year later. A second treaty would have to be signed in 1861 in order to narrow the gap between the granting of concessions to Great Britain and their enactment (Dunham 1971 [1930], 95).

The British cabinet was nonetheless displeased with the gap between the implementation of the British and French concessions. Although understanding the French concerns, the cabinet worried that the British public would heavily criticize the seemingly unbalanced agreement and demand its renegotiation (Dunham 1971 [1930], 91-92). The British government thus instructed its negotiators in Paris to receive at least some French concessions immediately. The instructions maintained that the British government “cannot help feeling that […] there should be at least a partial correspondence in the times when the prospective arrangements are to take effect. […] I repeat, you need not ask the Government of France to adopt a similar principle as its general rule of operation [the immediate reduction of all tariffs], but you will press with all your power for a reduction on some important articles to British Imports as essential in order to realize in full the salutary effects which Her Majesty’s Government anticipate from the contemplated Treaty” (cited after Dunham 1971 [1930], 93-94).
The government was anxious that the British parliament would refuse the treaty if it deemed the balance of concessions to be uneven. The French cabinet finally agreed to implement concessions before July 1, 1861 on a couple of items that were not covered by Napoleon’s pledge of 1856. As an additional safeguard, Great Britain dated the full implementation of the concession on wine on April 1 in 1861. The way was paved for conclusion of the general commercial agreement after both countries approved these terms (Dunham 1971 [1930], 95-99).

Both countries agreed to include an MFN provision into the treaty. Great Britain had made clear at the outset that all concessions that were given to France would be unilaterally extended to all other countries (Ashley 1904, 303). For France, the adherence to the MFN principle represented a fundamental turn in trade policy. France had pursued a non-discriminatory trade policy in the second half of the eighteenth century, but had abandoned the MFN principle in the first half of the nineteenth century (Moye and Nogaro 1910). In 1860, it was beyond any question for the French proponents of liberalization that MFN treatment should be an indispensable part of their future trade policy. They believed that liberalization could only be successfully pursued on the basis of non-discrimination because of the high probability that discrimination would be punished by retaliation (Haight 1941, 36).112

Negotiation of the Complementary Convention
The Anglo-French treaty was signed on January 23, 1860. It specified the general terms of trade relations between the two countries, fixed the upper bounds for French duties, and stipulated that the French ad valorem duties need to be transformed into specific duties. Specific tariff levels were to be fixed in a complementary convention. Moreover, the trade agreement had only been approved by the French and British governments. This meant that the general agreement and the convention were still subject to domestic discussion and criticism in France (Brandt 1896, 122).113

At first glance, there was no strong free-trade movement in France that could have countered the protectionist agitation. For this reason, Napoleon III tried to stimulate support for the treaty among those groups that would benefit from liberalization. The French emperor resorted to two instruments that were already mentioned above.

112 The attempts of Great Britain to achieve trade liberalization through discrimination in the years after 1815 were exemplary. Other countries did not enter into trade negotiations with Great Britain, but instead retaliated against British agreements that created trade diversion (McKeown 1982, 79).
113 The agreement was also contested in Great Britain. I do not consider this dispute in detail here since my focus is on France (Dunham 1971 [1930], 110-122).
First, with his public letter he tried to energize his supporters and inform them of the benefits they would receive from liberalization. Second, Napoleon III intended to improve the infrastructure and to grant loans to domestic producers in order to prepare them for increasing foreign competition. The public response to this letter showed that Napoleon’s strategy was successful. From all over the country, many of the groups that expected to benefit from the agreement expressed their support for his plan through public announcements and in petitions sent to the members of parliament (Dunham 1971 [1930], 124).

The protectionists in turn launched a petition in which they expressed their stark opposition to the treaty. The petition was signed by more than 1,000 producers who feared increased British competition. In addition to the use of “voice”, a couple of manufacturers shut down their factories in order to get workers on their side. The French executive stood firm and successfully threatened to legally sanction factory owners for the shutdown of their facilities. The attempts to bring the treaty down outside of the political arena failed, and the protectionist groups put all their hope on the protectionist-minded members of the parliament, many of whom were manufacturers who wanted to maintain protection for selfish reasons.

The protectionists, however, did not have the opportunity to stop the treaty in Parliament, because Napoleon III enjoyed the constitutional right to sign trade agreements without parliamentary approval. Instead, the protectionists’ plan was to influence the public and political opinion so as to shape the negotiations about specific tariff concessions in their favor. In particular, the goal was to set all duties at 30 percent, which was the maximum allowed under the Anglo-French treaty, and to reduce them to 25 percent in 1864, which was the maximum level allowed after 1864. The French government refused to set the tariffs at the maximum levels since this would have contradicted its preferred trade policy. The executive was prepared to protect infant industries from foreign competition, but wanted to expose the mature industries to competition from British imports. The protectionists again completely failed in influencing the behavior of the government, and the latter entered into the specific negotiations in the summer of 1861 that could be concluded in the last months of 1861 (Dunham 1971 [1930], 131-134).

The precise procedure by which tariff levels were set was as follows: first the French government advised the Conseil Supérieur du Commerce to hold hearings with concerned domestic producers in France and Great Britain; second, to transform the
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ad valorem maximum duties into specific maximum duties; third, to determine the level of protection the French industries needed and to recommend specific tariffs accordingly. The government formally followed the insistence of protectionist groups on an enquête inquiring into the expected effects of the tariff reform (Brandt 1896, 124-125). The Conseil mostly contained liberal-minded members and the testimony was conducted in secrecy so that little information leaked outside. Because of this, the protectionists could not exert any significant influence at this stage of the tariff reform. The negotiations on the precise tariff levels began after the Conseil had held the hearings and collected information. France agreed on tariff levels that were mostly far below the maximum duties and that varied from item to item (Dunham 1971 [1930], 136-139).

The concessions that France and Great Britain finally exchanged through the convention were tailored to the two countries’ demands for several reasons. First, besides the fact that the agreement served an important political purpose, Great Britain wanted to reap some commercial benefits from it as well. This goal was achieved by requesting concessions that were to the particular benefit of British producers, especially producers of textiles (Marsh 1999, 21-22). Second, the specific demand of Great Britain mirrored the intention of Napoleon III to grant concessions that were to the treaty partner’s exclusive benefit (Amé 1876, 311). The idea was to give exclusive concessions to Britain in order to encourage third countries to negotiate treaties on their own with France (Haight 1941, 34). Third, the liberal-minded members of the French executive aimed to keep control of the foreign competition resulting from increased British imports. Napoleon wanted to stimulate more dynamic economic development. Since the stage of development of specific industries in France and Great Britain varied from industry to industry, it was deemed necessary to set tariff levels with an eye on the relative levels of development. Related to that point was the objective not to raise too much opposition and unrest among domestic producers. The national producers who benefited from a closed domestic market were totally opposed to any trade liberalization. It was clear that their resistance would be stronger, the more they were exposed to foreign competition and the more they would feared losing market share or even being ruined (Amé 1876, chap. 14; Dunham 1971 [1930], 133).

114 This enquête should not be confused with the one that was installed by Napoleon because of his promise of 1856 (see above).
The French executive started to grant the above-mentioned loans after the conclusion of the convention. The decision to grant loans to national producers must be considered in combination with the need to provide economic assistance against foreign competition and to calm national producers. The demand for the loan was greater than expected and more money was requested than provided for by the French executive (see Dunham, 1971 [1930], 147-159 for some details of the distribution of the loan). It is unclear whether the actual demand reflected the real demand, or if producers that did not actually need financial assistance applied for a loan as well, but in retrospect it seems that the loan achieved Napoleon’s political objective more than his economic goal. The economic effects arising from official financial assistance seemed to be modest compared to the consequences of trade liberalization. However, it seems safe to conclude that the loan somewhat appeased producers that were against the treaty (Dunham 1971 [1930], 160).

The French strategy of selective concession-making proved successful before negotiations with Britain were even finished. The trading partners of France were anxious that they would suffer from trade diversion due to the preferential access of British exports to France (Ashley 1904, 306). Belgium, a prominent French trading partner, approached the French government even before it concluded its talks with Great Britain (Dunham 1971 [1930], 127, 360). The Anglo-French agreement was to the disadvantage of Belgian exporters since Britain and Belgium had similar trade profiles. Belgium eventually managed to negotiate a treaty with France that in turn put its exporters on better ground than those of Britain (Marsh 1999, 29-30).

The Anglo-French agreement had a similar effect on other countries, resulting in trade agreements with the Zollverein, Italy, Switzerland, Sweden and Norway, the Hanse, Spain, and the Netherlands. All these treaties were bilateral and included an MFN provision. This set of bilateral treaties benefited French exporters, yet at the expense of those competing with imports, since France always had to give some concessions in return for enhanced market access abroad (Haight 1941, 34). In contrast, Great Britain faced many more problems signing additional trade agreements. Due to unilateral free trade, Great Britain had only very little to offer in trade bargaining, and third countries had little incentives to enter into negotiations (cf., Marsh 1999). A network of bilateral MFN agreements evolved in Europe over time. This network came

115 See Brandt (1896, 127) for the reaction of Prussia which is exemplary for the foreign response to the Anglo-French agreement.
came under stress in the 1880s because of a depression and finally led to a change in the French trade policy. Before I analyze this change in more detail, I will first consider the empirical evidence on institutional choice around 1860 in the light of my model.

**Conclusion**

The analysis of the Anglo-French agreement of 1860 first and foremost serves to test for the determinants of bilateral bargaining and the application of MFN treatment. The empirical evidence lends strong support in favor my model. Concerns about efficiency were an important factor in the decision to liberalize trade. Napoleon III wanted to decrease import prices so as to increase the welfare of consumers and promote the competitiveness of French producers. However, these concerns were not decisive for institutional choice, as is hypothesized by the efficiency approach. It could be clearly shown that a reciprocal exchange of concessions was essential for Napoleon III, since domestic distribution mattered most to him. This is an interesting finding on its own because Napoleon III was in a powerful position in 1860. He could conclude agreements without parliamentary involvement, and there were no elections he had to fear. Nonetheless, Napoleon III was anxious about the domestic distributional implications of liberalization. This observation suggests that one should look beyond simple campaign contributions, the usual instrument of lobbying, to understand the influence of business interests on the political process.

I have shown that substantial British reductions in the tariffs on the major export articles of France – wine and luxury articles – were deemed necessary to stimulate support for the treaty and to counter the opposition raised by import-competitors. However, concessions on French export articles were only a necessary element for rendering the treaty domestically feasible. As I explained in chapter 2, two steps are involved in the link trade policy-making and support for political actors. First, trade policy has an economic effect on the income of economic actors. In this particular case, this step covers the concessions that were exchanged between France and Britain. Second, economic actors translate the economic impact of trade policy into altered support for political actors. The potential beneficiaries of a more liberal trade policy were not as well organized as those facing foreign competition. The protectionist groups in France had no problems in organizing protest against the agreement. In ad-
dition, the protectionists tried to appeal to the consumers’ identity as workers to get them on their side.

Napoleon III tried to diminish the imbalance between the beneficiaries and losers of liberalization by two means. First, he tried to mobilize consumers and exporters through the public letter that laid out his economic plans. This successfully since the letter stimulated positive feedback among the beneficiaries of liberalization. Second, Napoleon III used his power to strengthen the position of the liberal-minded members in the executive and the parliament throughout the negotiations. This was done, for example, by assigning a disproportionately large share of seats in the two enquetes to liberal-minded members of parliament. Napoleon III could thereby shape the political processes in his favor and stifle agitation against his trade policy from inside the parliament. In sum, Napoleon insisted on a reciprocal exchange of concessions because of his strong concerns about domestic distribution.

The empirical analysis further indicates that concerns about distributional let political actors pursue specific reciprocity that, however, can clash with the desire to phase-in concessions. Gladstone preferred to exclude the concession on wine from the treaty and to grant this concession through a legislative act. In the light of almost 15 years of unilateral free trade, the promise to reduce the tariff on wine unilaterally was credible. Nonetheless, France insisted on the inclusion of the wine concession in the treaty because it did not want to rely on unilateral action by Britain. The reason for the pursuit of specific reciprocity was the tremendous domestic political importance of the wine concession for Napoleon III. It could be shown that the concession on wine was the main issue with which Napoleon III aimed to sell the treaty domestically. In section 2.6 (on rival explanations), I have explained that specific reciprocity might also arise from concerns about security and balance-of-payments problems. Although security concerns played a central role in the decision to sign a treaty, there is no indication that France pursued specific reciprocity because of this factor. Nor is there support for the balance-of-payments hypothesis.

Interestingly, one can see that specific reciprocity was important for Great Britain too. This finding comes as something of a surprise, since Great Britain was committed to unilateral free trade. The insistence on reciprocity became manifest when France made clear that it did not want to liberalize trade before July 1, 1861, but still wanted to benefit from British liberalization in 1860. The British behavior can also be explained by a domestic support model, though the factors behind the change in sup-
port by societal actors were political and not economic. Great Britain felt more threatened by France than vice versa. The British government expected that a non-simultaneous exchange of concessions would provoke public and parliamentary opposition because of concerns about French relative gains. This finding corroborates the competing realist hypothesis on specific reciprocity, whereas it was clear at the outset that economic variables would not play any role because of the British record as a unilateral free-trader.

Turning to the form of cooperation, the empirical evidence lends support for my key hypothesis on institutional choice. Starting with the choice of the bargaining approach, my hypothesis on the choice for an item-by-item approach is also confirmed. The commission that determined the tariff levels in the Anglo-French convention set the tariffs so that they varied from item to item. The historical record shows that this was done in order to fine-tune the concessions granted to Britain. On the one hand, this was motivated by economics, since Napoleon III did not want to create too many economic disturbances. On the other hand, domestic politics also played a role. The fixing of concessions on an item-by-item basis enabled Napoleon III to keep control over the resulting loss in support and to at least partially compensate for this through the loan and the improvement of the national infrastructure. This observation confirms my hypothesis that prevailing distributional concerns led political actors to choose an item-by-item approach.

The empirical record also suggests that distributional concerns played a decisive role in the choice of bilateralism. It was mentioned above that France signed several treaties in a few years after the conclusion of the Anglo-French agreement. This suggests that there was an opportunity to negotiate a multilateral treaty with all the countries that were subsequently approached in bilateral negotiations. Napoleon and all other countries alike sought bilateral treaties instead. One might argue that France preferred bilateralism multilateralism because of the political significance of the Anglo-French treaty. Such an argument would miss the point that a multilateral commercial agreement would have served their political objectives equally well. Because of this, France’s political goals cannot explain why they preferred bilateralism to multilateralism. In addition, neither of the other rival approaches can explain bilateral cooperation. Although there is no “smoking gun” providing unequivocal evidence for my domestic support hypothesis on bilateral bargaining, the overall picture indicates that this is the hypothesis which fits the historical record best. Napoleon III had strong
concerns about domestic distribution and this is also the reason why an item-by-item approach was chosen. Given the fact that the multilateral trade agreement was generally possible, it is most reasonable to assume that domestic distribution drove the choice for bilateralism. Furthermore, it can be seen that the announcement of a bilateral agreement with Britain aroused much opposition from protectionists. A multilateral agreement seemed clearly out of reach for Napoleon III.

A second factor that shaped the choice of bilateralism was the bargaining leverage France enjoyed in sequential bilateral negotiations. As I have shown, Napoleon hoped that other countries would initiate negotiations on their own so as to avoid trade diversion. The empirical record shows that this strategy proved quite successful. This is an interesting observation that is, in my eyes, often taken for granted in the literature. In effect, France discriminated against its trading partners through the Anglo-French agreement; it is interesting that they did not retaliate. This is what Britain’s trading partners did in the years after 1815, when Britain tried to achieve liberalization on the basis of discrimination. The different reactions to Britain after 1815 and France around 1860 seem to be due to the different attitude of their respective trading partners. Most countries were protectionist in the first half of the nineteenth century and did not respond positively towards Britain’s treaties, i.e., by lowering their tariffs as well (Bairoch 1989). Kindleberger (1975) argues that the proponents of free trade grew in number and power in Europe in the first half of the nineteenth century. This development could well explain why the response in the 1820s was different from the response in the 1860s. It follows from the French experience that discrimination is not necessarily bad. On the one hand, it helped Napoleon III manage the economic implications of the Anglo-French agreement domestically. On the other hand, the treaty set an incentive for other countries to enter into trade agreements as well. This shows that my model successfully explains the institutional choice of the concerned economic and political actors.

With respect to the application MFN treatment, I have shown that the reintroduction of the principle of non-discrimination was undisputed among liberal-minded political actors. Discrimination was seen as a source of retaliation and economic warfare, as Britain, for example, experienced in the early nineteenth century when it followed a purely bilateral trade policy. Consequently, purely bilateral agreements were deemed incompatible with liberal trade. I have not found any direct evidence in favor of my hypothesis that MFN treatment was rooted in concerns about the effects of for-
eign retaliation on domestic support. I have demonstrated, however, that concerns about domestic distribution played an essential role for the behavior of Napoleon III and his liberal ministers. In light of this finding, I consider it justified to argue that no other variable than distributional concerns suggests itself as a compelling explanation for the application of MFN treatment. If the French liberals had been committed to the idea of liberal trade and non-discrimination, there would have been no need to tailor the concessions that were granted to Britain in the way I discussed above. The behavior of the French protectionists is not helpful at all in this regard, since they were busy with preventing the general change in commercial trade policy. The lack of any empirical record indicating their specific opposition to MFN treatment suggests that this point was not of particular concern to the protectionists. As the next section will show, this was different in the following three decades when protectionist groups particularly attacked the principle of non-discrimination.

4.2. The Méline Tariff of 1892

This section deals with the process finally resulting in the French institutional reform of 1892, which the Méline tariff brought about. The tariff reform of 1892 must be seen in connection with the tariff revisions of 1872 and 1881. The relatively short time span is one reason for considering the three reforms in conjunction. The parliamentary and public discussions about the terms of French trade policy kept the dispute between liberals and protectionists alive throughout these 20 years. Moreover, I have shown in section 3.3 that the extension of the period under investigation enhances causal inference in process tracing.

The Tariff Revision of 1872

The protectionists took the first opportunity to attack the liberal trade policy at the end of the 1860s. The trade agreements that were signed at the beginning of the 1860s had a duration of ten years, meaning that they were subject to renegotiation in the late 1860s and early 1870s. The protectionists criticized Napoleon’s trade policy on two grounds: they claimed that the tariff reductions of the 1860s went too far, and that bilateral agreements were too rigid and made it impossible to react to changing circumstances.

The criticism of the liberal treaty system had a political and an economic source which must be seen in conjunction. Politically, Napoleon III was generally criticized for his legacy. His move to a liberal trade policy in 1860 was considered one of his
many mistakes in foreign-policy making. The economic criticism had its roots in the competitive pressure originating from French liberalization. The economy prospered in the 1860s, so trade liberalization could not be blamed for having missed its economic goal (Ashley 1904, 309-312). But the sectors threatened by imports felt rising competitive pressure and wanted to return to protectionism as soon as possible (Brandt 1896, 138-139). Weakened by steady criticism, Napoleon III finally gave way to the protectionist pressure and gave up his prerogative to conclude treaties without parliamentary approval, which was essential for the initialization of liberal trade in 1860 (Dunham 1971 [1930], 294-296).

This move was without any further consequences for Napoleon III, since he was toppled and the Third Republic established in 1870 and 1871 (Haight 1941, 47). Adolphe Thiers, who was a protectionist, became the new head of the executive and appointed other protectionists as minister of finance and minister of commerce. He was determined to raise tariff levels for two reasons. He needed to generate revenue in order to pay war indemnities to Germany, which won the Franco-Prussian War of 1870–71. In addition, he intended to shelter producers from increasing import flows through higher tariffs. Thiers tried to achieve this through a bill raising duties above the levels that were fixed in the existing trade agreements. Among other things, he planned to reinstall a few export duties and increase tariffs on a couple of raw materials most of which were imported at low tariffs or even duty-free since the early 1860s (Smith 1980, 37).

The prospects for Thiers’ plans were not bad because many members of parliaments were protectionists (Dunham 1971 [1930], 297). Besides the opposition of liberal-minded economic and political actors, the tariff on raw materials displeased the producers that relied on imported input-factors. Therefore, Thiers’s attempt to generate revenue conflicted with the economic interests of import-seekers. This conflict between the executive and the parliament resulted in a rejection of the bill in 1872 (Smith 1980, 37). Thiers tried to resolve the dispute by offering customs drawbacks and by imposing compensatory duties on manufactured goods. After a long parliamentary discussion, the parliament approved slight tariff increases on raw materials and drawbacks for a few items. The problem for Thiers was that all changes to the existing system were made conditional on tariff increases for manufactured goods (Brandt 1896, 142-143).
Two paths to tariff increases were available. On the one hand, France could renounce its treaties before they expired and increase its duties unilaterally. This option was considered risky since it was expected that other countries would retaliate (Dunham 1971 [1930], 298-299). On the other hand, the French executive could try to renegotiate its treaties and fix higher tariffs in the new agreements. Thiers chose this path.

France denounced its treaty with Great Britain, which was the most important for France, and started the renegotiations. Britain was more reluctant to conclude a new treaty than in 1860, in particular a more protectionist treaty. Great Britain’s executive was still convinced that unilateralism was the best mode of action, especially when trade treaties served to increase tariffs. In the face of this British position, Thiers increased the bargaining pressure by threatening to eliminate MFN treatment. Discrimination was seen as an infeasible course of action with respect to all countries but Great Britain because Thiers knew that the British commitment to non-discrimination would render retaliation impossible. Indeed, Great Britain was anxious to lose MFN treatment and agreed to some modest tariff increases.

However, in most cases the new duties remained below the tariff levels demanded by the French parliament (Dunham 1971 [1930], 310-315). Since the French parliament made the tariff increases on raw materials contingent on higher duties on manufactured goods, there was no chance to put Thiers’ tariff law into force (Ashley 1904, 316-317).\footnote{The question that comes up is why Thiers was unable to extract more concessions from Great Britain so that the treaty would have passed the French parliament. There is no clear evidence on this. One answer might be that the British exporters already reacted to Thiers protectionist move by seeking enhanced access to other markets (Marsh 1999, 82-85). Thus, the bargaining position of Thiers might not have been as strong as the threat to discriminate suggests.} As a consequence of that, the law was repealed in 1873 and Thiers resigned as head of the executive. Moreover, the protectionists did not ratify the new trade agreements Thiers had concluded, but prolonged the old treaties for four more years. The ironic effect was that the liberal trade system remained in place, although the protectionists in the executive and the parliament were in a good position to abandon it (Smith 1980, 38-39).

**The Tariff Revision of 1881**

**Attempts to Continue Liberalization**

The next chance to change the trade system came up at the end of the 1870s, when most of the renewed French trade agreements expired. In the mid-1870s, the French
economy prospered and the executive was prepared to liberalize trade further on the basis of the existing system. Besides the favorable macroeconomic conditions, the continuance of the liberal trade policy was enhanced by the fact that the pivotal Ministries – Commerce, Finance, and Foreign Affairs – were headed by liberal-minded ministers (Smith 1980, 40-43). The government’s plan was to transform the current conventional tariff into the new general tariff, which could be further reduced through bilateral agreements. A similar proposal was made by an advisory commission that reviewed the state of the textiles industry, but also touched upon general issues of trade policy. The commission comprised liberal and protectionist producers in textiles, which is noteworthy insofar as the textiles sector was traditionally against trade liberalization (Dunham 1971 [1930], 321-329).

Although there existed the opportunity for a liberal and politically uncontroversial tariff revision, the Minister of Commerce, the Comte de Meaux, sought additional information from domestic producers by submitting a questionnaire to the French chambers of commerce in 1875. The chambers’ replies can be reduced to a few core suggestions. The status quo was deemed satisfactory in terms of tariff levels and system, i.e., the combination of a general tariff set by law and a conventional tariff determined in bilateral agreements. In addition, they supported the idea of making the existing conventional tariff the new general tariff and further reducing it through trade agreements. On the other hand, the chambers requested four changes in the design of trade cooperation. First, all treaties should last ten years and should expire simultaneously. Second, MFN treatment should be abolished, which is an interesting request, since de Meaux did not ask about MFN treatment in his questionnaire. One argument underlying this was that sequential negotiations and MFN treatment made the tariff subject to steady downward revision. The tariffs agreed on in a trade agreement were not stable, and the domestic producers’ uncertainty about the future development of the tariff was high (Dunham 1971 [1930], 330-331). Third, the chambers favored a strongly diversified tariff schedule, i.e., increasing the number of items on which tar-

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117 The questionnaire contained the following questions: (1) What changes in tariff rates should be made? (2) Should tariffs be ad valorem or specific? (3) Is it possible to alter tariffs in a way that increases revenue? (4) Is a treaty system preferable to a general tariff by law? (Dunham 1971 [1930], 330). The fourth question is strange since the French trade system actually combined both elements and there was no intention to eliminate one of the two elements.

118 Dunham speculates that most of the chambers did not recognize that this would have meant further liberalization (Dunham 1971 [1930], 331). In my eyes, this is hard to believe since French trade policy proceeded on that basis since 1860.
iff's could be imposed (Brandt 1896, 151). Finally, a small, but powerful faction of the chambers suggested abandoning trade treaties altogether and returning to a single tariff that was to be set autonomously (Ashley 1904, 318; Smith 1980, 45).

The first steps toward renegotiations of the existing treaties were taken in 1875. Two demands issued by the chambers were implemented insofar as the French government proposed treaty durations of ten years. Moreover, the negotiations were held simultaneously because of the decision of 1873 to let all treaties expire in 1877 (although, as I will show below, the negotiations could not be settled simultaneously). Regarding MFN treatment, the government disregarded the chambers’ demand for it and was determined to include MFN provisions in its bilateral agreements.

The problem the French negotiators encountered in international bargaining was that they could hardly negotiate about a new conventional duty unless the new general tariff had been put into place by the French parliament. As a consequence of that, the negotiations proceeded slowly. Nonetheless, some progress could be achieved, in particular in the important negotiations with Great Britain, which I discuss in more detail below (Dunham 1971 [1930], 333-335).

The French government intended to lay the ground for its future trade policy in 1877. It prepared a bill for submission to the parliament, which represented continuity and contained two major elements: the conventional tariff should become the new general tariff and the general tariff should be reduced through bilateral MFN agreements. In 1877, the economic environment was still favorable for further liberalization on the basis of the existing institutional arrangement. The “usual suspects” in industry still pushed for protectionism, but the agricultural sector and exporting industries were in favor of a continuation of liberal trade. However, political events unrelated to trade policy set an end to the government’s plans. Republicans and monarchists clashed in the “Seize May Crisis” in 1877. A new parliament was elected and a new government installed in the course of this crisis, thereby temporarily preventing the submission of the bill for approval by the parliament (Smith 1980, 47-51).

**Increasing Protectionism and the Tariff Commission**

This delay gave the protectionists time to mobilize and to push for a return to protectionism. The protectionists were better organized than the liberals, as was the case the nineteenth century. In addition, the worsening economic conditions played into the hands of the protectionists. Many domestic producers began to feel the consequences
of the deep depression of the 1870s, which was mainly a “great deflation” (Smith 1980, 49). Prices started to fall at the end of the 1860s and only recovered in the 1880s (cf., Kindleberger 1964). Over time, more and more producers leaned toward protectionism because of the unfavorable macroeconomic development (Brandt 1896, 153). In particular, the agricultural sector was affected by a flood of cheap imports, so that many producers turned more protectionist (Ashley 1904, 320-321; Smith 1980, 166-170). These factors contributed to a growing and strengthening protectionist movement.

The new government was not much more protectionist than its predecessor and picked up the negotiations of the existing agreements after the Seize May crisis (Smith 1980, 50-51). The negotiations became protracted because the French protectionists first wanted to revise the French tariff system before the conclusion of new trade agreements. The protectionists were well organized inside as well as outside of the parliament. The protectionist producers founded the Association de L’Industrie Francaise (AIF) and coordinated their efforts through this national organization. The AIF tried to influence public opinion and the members of parliament through various means. It prepared a resolution that was signed by its members and submitted to the parliamentary commission in charge of tariff matters. Moreover, the AIF aimed to stimulate public support by spreading protectionist propaganda in its printed organs and by running discrediting campaigns against free trade and its proponents. The latter were challenged by this protectionist mobilization and resorted to the same instruments. They created their own leading organization, consulted several members of parliament, and ran public campaigns in favor of liberal trade. However, the protectionists were more influential than the liberals.\(^\text{119}\)

As a consequence of that, it was impossible to get any trade agreements passed by the parliament while the latter had not decided about a new general tariff (Smith 1980, 55-60). The executive responded to this situation by denouncing all trade agreements at the end of the 1870s so that the treaties expired on January 1, 1880. The government thereby paved the way for the revision of the general tariff without setting any precedents in the form of new agreements. However, the general tariff could not be revised in time because of a protracted domestic political process. Neither the parliament nor the cabinet wanted to lose the benefits derived from the expiring treaties.

\(^{119}\) A detailed treatment of which sectors favored protectionism or liberalization for what reasons is given by Smith (1980, chap. 2-3)
Consequently, they were prolonged until the enactment of the new general tariff in 1881 (Dunham 1971 [1930], 343-344).

The reason for the lengthy tariff revision was that the domestic political constellation in 1878 was completely different from that of 1875. The shape of the future trade policy became strongly contested in terms of its design and tariff levels. The protectionists attacked bilateral trade agreements as a means to reduce French tariff levels below the general tariff. Furthermore, they wanted to use the general tariff as a protective instrument and were prepared to accept reprisals from their trading partners. The liberals insisted on keeping trade bargaining and commercial agreements as an integral element of French trade policy (Marsh 1999, 121; Smith 1980, 151).

The Chamber of the French parliament established a tariff commission at the beginning of the domestic deliberations in 1878. The protectionists held a majority in this commission. The protectionists’ goal was to install a protectionist general tariff that would be the minimum tariff. This would have made the conclusion of trade agreements meaningless, as tariff reductions below the general tariff were impossible. In order to find arguments for this move, the commission once more asked the French chambers of commerce to submit their opinion on MFN treatment, the general design of the trade system, and the question of specific vs. ad valorem duties. In essence, the questionnaire of the commission was very similar to the questionnaire that de Meaux distributed in 1875, but now the answers displayed a clear tendency toward protectionism. A large majority favored specific over ad valorem duties in order to counter the effect of declining prices on exports and imports. Nearly half of the respondents favored the high tariff pursued by the protectionists in parliament; the other half supported the more liberal general tariff drafted by the executive. Half of the chambers were in support of trade treaties and half were opposed. Compared to de Meaux’s inquiry three years before, the average attitude of the chambers clearly moved towards protectionism. The questionnaire was followed by an extensive public hearing of producers that produced a similar result (Smith 1980, 153-155).

Nonetheless, the protectionists in the tariff commission continued to push for a high general tariff as the minimum tariff. As the protectionists realized that this position would not find a majority, they proposed a two-tier tariff system. A maximum tariff would be imposed on imports from countries that did not have a trade treaty in effect with France. A minimum tariff would be granted to imports originating from countries granting sufficient concessions in return. Both the minimum and maximum
would be fixed and could not be reduced through trade agreements. This proposal was not acceptable for a majority of the tariff commission. They feared that a dual tariff would isolate France and pointed to the bad experiences other countries had made with a two-tier tariff. In the end, the commission recommended increasing the general tariff and allowing the government to negotiate trade agreements creating a lower conventional tariff (Brandt 1896, 158; Smith 1980, 155-160).

**Mobilization and Parliamentary Decision**

The protectionist and liberal producers in the industrial sector tried to mobilize the public and political actors in order to revise the trade system in their favor. The pivotal actors in tariff reform were the agricultural producers. Their support was necessary to achieve a majority in parliament. The liberal producers aimed to get the public on their side through their own publications, which were distributed nation-wide. The members of parliament and ministers were directly lobbied through conventions in Paris to which political actors were invited. The protectionist groups received less supported by French newspapers and had also more problems to directly lobby political actors in Paris. They consequently focused on campaigning in the French periphery and tried to get the workforce on their side (Smith 1980, 161-163).

In addition, both groups vied for the support of agricultural producers. The agricultural sector had largely benefited from trade liberalization in the 1860s and had supported the maintenance of the liberal regime in the early 1870s, but agricultural producers started to feel the depression at the end of the 1870s. While nearly half of the agricultural producers were in favor of liberal trade, there was a general tendency in favor of protectionism that played into the hands of the industrial protectionists. The latter wanted to increase tariffs on agricultural and manufactured imports through log-rolling, i.e., each group supported tariff increases for the respective other group, an idea the agricultural protectionists finally embraced (Smith 1980, 165-170).

The problem that ensued was convincing a sufficiently high number of members of parliament for log-rolling. The protectionists in the tariff commission sought higher tariffs on manufactured imports, but were very reluctant to increase tariffs on agricultural goods. Their constituents, who become accustomed to lower prices during the past 20 years, would have directly felt increasing prices on foodstuffs. The agricultural and industrial protectionists in parliament finally agreed to raise duties through log-rolling. But when it came to the vote on agricultural tariff increases in the Cham-
ber, the members of parliament favoring industrial protectionism failed to provide enough votes and agricultural duties were not raised. When the general tariff was subject to decision in the Senate, the agricultural protectionists double-crossed the industrial protectionists and did not support their intended tariff increases. After two further votes in the Chamber and the Senate, the agricultural protectionists achieved some tariff increases, but the industrial protectionists could not raise many of their tariffs above the levels proposed by the executive (Smith 1980, 174-180).

Most of the ad valorem duties were replaced by specific duties and the conventional tariff was increased by 24 percent on average (Ashley 1904, 323-324). This increase has often been interpreted as a turn to protectionism. The empirical record however shows that the tariff increase was only partially driven by protectionism. The parliament enabled the government to bargain down tariffs on the basis of three premises: the general tariff should not be reduced by more than 24 percent, all duties were to be specific, and agricultural products were excluded from trade agreements (Ashley 1904, 324; Smith 1980, 181). Within these limits, the government intended to use the increased general tariff as a bargaining chip in its treaty negotiations. In this perspective, the tariff increase of 24 percent served a protectionist and a strategic purpose (Stein 1984, 371).

The Renegotiations of the Trade Agreements
The fact that France was able to renegotiate most of its agreements indicates that the strategy was successful. In fact, the executive often negotiated tariff cuts that nullified the increase in the general tariff (Haight 1941, 48). All treaties France concluded were bilateral and included an MFN provision. Moreover, the bargaining approach taken in these negotiations was the item-by-item approach. I focus on the Anglo-French negotiations because they were the most important for France and Great Britain alike and played a pivotal role in the course of the renegotiations.

The French bargaining efforts focused on a British concession on wine. For Great Britain, a substantial tariff reduction was problematic because the wine duties still generated much revenue. Moreover, Britain was simultaneously negotiating with Portugal and Spain, which produced heavier wines than France. As I mentioned above, Great Britain had taxed light wines less than heavy wines since the Anglo-French treaty of 1860. The differential taxation on wine ensured agreement with France in 1860, but it distressed the exporters of heavy wine, who suddenly faced
worsened import conditions. Spain and Portugal had argued since the 1860s that they would not open their markets for Britain unless the discrimination in favor of France was eliminated. A further concession on French wine in the 1880s would have antagonized Spain and Portugal even more.

Great Britain offered to reduce its tariffs on light and heavy wine to roughly equal levels, conditional on reciprocal concessions by the wine-exporting countries. France, Spain and Portugal altogether rejected this proposal. Each of the countries wanted favorable treatment instead of equal treatment. Great Britain continued to bargain with the wine-exporters individually about reciprocal concessions. It tried to strengthen its bargaining position vis-à-vis France by threatening to reduce its tariffs on heavy wine while leaving the duties on light wine untouched. This threat did not hit France as much as expected because of phylloxera, a disease attacking the roots of grapevines in France. Phylloxera caused a temporary drop in wine production, forcing France to import wine. Besides the dispute on the wine concessions, Britain’s main point of concern was the tariff reductions France offered on cottons and woolens, which were considered too small to be of relevance to the British textiles industry (Marsh 1999, 128-130).

In addition, Great Britain rejected the idea of item-by-item bargaining and excluding agriculture altogether from the negotiations. It argued for an across-the-board cut on all French tariffs. The French negotiators replied that they could not agree because of three things. The first impediment was the Treaty of Frankfurt, which concluded the Franco-Prussian war of 1870-71 and granted MFN treatment to Germany. All concessions granted to Great Britain had to be extended to Germany. The political rivalry between the two countries aside, France was worried about its balance of trade with Germany, which had turned from positive to negative in the previous years. In order to avoid that, Germany would indirectly receive concessions from an Anglo-French treaty, France urged Britain to bargain an agreement with Germany so that France would receive some concessions in return (which did not happen) (Marsh 1999, 130). Second, the depression had hit almost all sectors in the late 1870s. Higher tariffs were deemed necessary to protect domestic producers. Third, the French parliament was largely protectionist and expected the government not to make far-reaching concessions, particularly not in times of depression (Dunham 1971 [1930], 346).
As a consequence, the liberal-minded minister of commerce, Pierre Tirard, faced tight domestic pressure in the negotiations with Britain. After the French parliament had fixed the key terms of the new tariff system, he explained to Great Britain that the general tariff would be increased by 24 percent on average. This announcement was a shock for Britain, which expected that the new tariff would not be higher than the existing conventional tariff. The tariff increase would particularly hurt the British textiles industry. The large export markets of Germany, Italy, and the United States were already protected by high duties at the end of the 1870s. The French market was the last big market Britain could export to without facing substantial tariff walls. Furthermore, British textiles were cheap, but comparatively heavy. The French switch from ad valorem to specific duties would severely hit the British textiles industry, so Great Britain was eager to conclude a liberal treaty and to avert negative consequences for the textiles industry (Marsh 1999, 132-134).

The British negotiators threatened to increase the wine duty if the two countries could not come to an acceptable agreement (Marsh 1999, 135-136). France decided to enter into serious negotiations with a couple of other Continental European countries so as to increase pressure on Britain. Great Britain was anxious that France might be successful in securing other agreements before their own bargain could be concluded. In turn, the other countries wanted Britain to move ahead with an Anglo-French agreement. Consequently, Britain and the other continental countries coordinated their negotiations in order to weaken the French bargaining position. Great Britain was expected to negotiate an acceptable tariff on textiles that all other countries could benefit from through an MFN treatment with France. On the other hand, Britain wanted the other countries to resist French bargaining pressure and to reject its new general tariff. The bargaining coalition built by Great Britain was stable for some months, but Belgium finally gave in to French bargaining pressure. The fact that it was Belgium was particularly embarrassing for Britain; the trade profiles of the countries were very similar. This meant that Belgium would receive more favorable concessions than Great Britain if the latter could not conclude an agreement on its own (Marsh 1999, 137-140). In the end, the French tactic to open negotiations with other countries witnessed its first success.

The protectionists in France were alarmed by the Franco-Belgian treaty. They worried that the terms of agreement would have to be extended to Great Britain and other European countries through MFN treatment. As a consequence of that, the pro-
tectionist producers and members of parliament started a campaign against the ratification of the Belgian treaty and a treaty with Italy, which was also scheduled for ratification. The protectionists once more brought up the idea to substitute trade bargaining and MFN treatment with a dual-tariff system. However, the liberals were successful in getting a majority in the Chamber that approved both treaties. The second and last attempt to bring the treaties to fall was the vote in the Senate. The protectionists again argued for a dual-tariff system with a legislated minimum tariff. But as was the case in the Chamber, the liberals achieved a majority and these two treaties were put into effect.

After these events, Great Britain hoped that a change in leadership in the French ministry of commerce would change the French attitude toward a treaty. The protectionist-minded Tirard was replaced by Maurice Rouvier, who was more liberal than his predecessor and a member of an executive that was generally in support of liberal trade. However, the French position did not change substantially, since the new executive faced the same domestic constraints as Tirard. Recognizing that it would be difficult to agree on tariff cuts, France proposed to grant MFN treatment for Great Britain in exchange for Britain’s promise not to alter its wine duties to the disadvantage of France. France considered this is an equitable deal, since Britain would benefit from the French agreements through MFN treatment. This proposal implied that France would not have to make any concessions to Great Britain that it would have to extend to its treaty partners, which were counting on benefiting from an Anglo-French agreement through MFN treatment. Britain replied that the new French conventional tariff would be higher than the old conventional tariff and worse than the status quo. France tried to achieve an agreement by offering more concessions on textiles than at any point before in the negotiations, but the offer remained unacceptable for Britain. Britain’s bargaining position was additionally weakened by the fact that more and more countries came to an agreement with France. Thus, the British bargaining tactics of simultaneous bilateral negotiations had completely failed.

For Britain, the only remaining option was the conclusion of a simple MFN treatment in which no concessions were directly exchanged. Even this proposal was contested, however. France argued that a treaty would guarantee Britain the conventional tariff. On the other hand, Britain would be free to change its tariffs at any time because of its small number of tariff agreements. The particular concern of France was that Britain might soon turn to Spain and Portugal and offer them concessions on
4. Trade Cooperation after 1860

heavy wine in exchange for enhanced market access. As a consequence of that, France granted Britain MFN treatment conditional on the preservation of the British tariffs on wine. Any unfavorable change in the British wine duties would lead to the abandonment of MFN status (Marsh 1999, 142-146). At the end of the tariff revision of 1881 and the subsequent treaty negotiations, more than half of French items were subject to the general tariff. Around 15 percent of the tariffs were higher than the old conventional tariff but lower than the new general tariff, and approximately 20 percent of the duties were even below the old conventional duties (Smith 1980, 193).

The Méline Tariff of 1892

The Domestic Political Process

The revision of the trade system in 1881 witnessed a heavy conflict between liberals and protectionists. The trade system invented in 1860 was maintained, but higher tariffs reflected an increasing protectionist sentiment in France. The next date for trade reform was in the early 1890s, when the trade treaties that were signed in the 1880s expired. The depression continued throughout the 1880s and strengthened the protectionist movement in France as well as in most other European countries (cf., Bairoch 1989; Marsh 1999). Many countries increased their barriers to trade in order to relieve competitive pressure on industries open to foreign competition and increase the market share of domestic producers in the domestic market. Protectionism allowed domestic producers to demand higher prices from consumers. This drove up profits and indirectly strengthened their competitive position in export markets because producers used their domestic profits to sell abroad at dumping prices. In effect, reciprocal liberalization was more frequently replaced by beggar-thy-neighbor policies (Brown 2003, 62-63).

In addition to the depression, the return of more protectionist-minded politicians into the executive strengthened the French protectionists. Jules Roche, who was a moderate protectionist, became minister of commerce in 1890. The ministry of agriculture had also been held by a protectionist since 1883. Equally important, Charles

120 Bismarck, German Chancellor in the 1880s, nicely summarizes the changing attitude toward trade policy in the following quote. “The present depression of German manufacturers and the tendency apparent in America and in great neighboring states, after the lapse of commercial treaties to give increased protection to home production, demand that we should ascertain whether it may not be desirable to give our national manufacturers a larger control of the home market, at the same time that we bring together such matter as may enable us by treaty to break down the barriers impeding the expansion of our exports” (Marsh 1999, 112-113).
de Freycinet, who sided with the protectionists, became head of the government in 1890 (Smith 1980, 198-202).

Moreover, the protectionist movement became more powerful than time since 1860 because of a coalition of industrial and agricultural protectionists both outside and inside the parliament. This development put the treaty system and MFN treatment under increasing pressure (Brandt 1896, 182). As I mentioned above, the protectionists from both sectors had tried to cooperate in the course of the tariff reform of 1881, but had failed to build a coherent voting bloc in parliament. This was different in the 1890s, when the economic and political actors of both sectors were more certain about each other’s intentions. The protectionists were also largely successful in receiving public support for higher tariffs, which were linked to higher wages and more employment (Haight 1941, 51).

Furthermore, the protectionists in the industrial and agricultural sector employed their comparatively high degree of organization in the parliamentary elections of 1889. The economic actors systematically approached candidates for parliament in order to get their support for a protectionist trade policy. Many of the candidates committed themselves to pursuing a protectionist trade policy, thereby laying the basis for the creation of voting blocs in the parliament. The protectionist politicians also installed a permanent tariff commission in which they held a majority and which played an important role in the revision of the French trade system. The liberal economic and political actors did not stand still in the course of the tariff revision. The export-oriented sectors organized themselves in *Comités de Defense* that were coordinated by a central committee of liberal-minded producers. Alongside the activities of economic actors, liberal member of the parliament formed a voting bloc and tried to prevent a bold move toward protectionism. The protectionists, however, built a stronger position than the liberals (Smith 1980, 200-204).

In 1890, the two advisory boards on industry and agriculture, the *Conseil Supérieur du Commerce et de L’Industrie* and the *Conseil Supérieur de L’Agriculture*, were asked by the executive to propose a design for a new trade system on the basis of an inquiry of French producers. The responses displayed a clear trend towards protectionism compared to the earlier polls mentioned above. Most of the consulted chambers favored the revocation of the existing treaties. A great majority was also against the conclusion of any new trade agreement (Brandt 1896, 188).
The two councils were skeptical about the consequences of a complete withdrawal from trade bargaining, so both boards recommended installing a two-tier tariff system like the one proposed by the protectionists in the 1880s. A fixed maximum and minimum tariff should be imposed, each above the existing conventional and general tariff. The minimum tariff should apply to imports from countries granting France MFN treatment. The maximum tariff should be charged on imports from countries that do not grant any special treatment for French imports (Ashley 1904, 339-340; Smith 1980, 202-203).

This recommendation strengthened the protectionist’s position because it resembled the proposal they made during the tariff revision in 1881. But the executive soon made it clear that it would not completely ignore the interests of the liberals. In 1890, the minister of commerce, Jules Roche, declared that “we [the executive] have not thought it wise to pass abruptly from one extreme to the other in the matter of economic policy […] we think it possible to give satisfaction to the complaints raised against the present regime without renouncing the essential advantages that that regime assures” (cited after Smith 1980, 204). This meant that the executive intended to substitute the old system of MFN bilateralism through a dual tier tariff. The interests of the liberals were mainly taken care of through the size of the minimum and maximum tariff. Consequently, the maximum and minimum tariffs the executive proposed were lower than those demanded by the protectionists.

The above-mentioned parliamentary tariff commission looked into the new tariff and proposed duties substantially higher than those recommended by the government. Some of the duties that were proposed by the commission were later approved by the parliament, but others were rejected. The final tariff schedule was a mixture of the tariffs demanded by the liberals and the protectionists (Haight 1941, 343-345).

Furthermore, the executive introduced supplementary provisions mitigating the effect of tariff increases. These provisions included, for example, the temporary admission of imports below the fixed duties (if they were used for exports) and direct subsidies for input-seekers that had to bear the costs of tariffs on raw materials (Smith 1980, 204-208). The whole-hearted protectionists opposed these instruments with which the government sought to accommodate the interests of the liberal-minded economic and political actors. But the executive was supported by the moderate protectionists who found their interests sufficiently represented in the new tariff system, so these provisions became parts of the French trade system.
The ardent protectionists experienced another defeat in the vote on the institutional design of French trade policy. The protectionists sought fixed tariff levels that could not be altered through commercial agreements. In contrast, the government wanted to keep the freedom to negotiate trade agreements (Brandt 1896, 193), which were considered “avantages essentielles” by Jules Roche (Devers 1892, 185). According to Roche, a pure dual-tariff system would expose “our country to the serious disadvantage of being placed in a state of complete economic isolation, which would furthermore cause a severe retaliatory response to the surtaxes that we will be the first to apply” (own translation of French quote in Devers 1892, 186). The executive gained a parliamentary majority in 1892 and retained the opportunity to negotiate tariffs falling below the minimum tariff. Yet in contrast to the previous three decades, the duration of the agreements was left unspecified and the treaties could be denounced at any time on one-year’s notice. This new provision took account of the protectionists’ criticism that the old treaties constrained France too much in its trade-policy making autonomy (Haight 1941, 66-67).

In sum, the French trade system was a “hybrid system” (Smith 1980, 209) after 1892. It combined two elements that are mutually exclusive: a two-tier tariff with fixed maximum and a minimum duty, and a bilateral MFN agreement. The executive built such a hybrid system in order to accommodate the interests of liberals and protectionists. A fixed minimum and maximum tariff, which was for most items higher than any time since before the 1860s, served the interests of the protectionists. They demanded high tariffs for protection and inflexible duties in order to decrease uncertainty about tariff levels. Bilateral agreements including MFN provisions were the instruments with which the executive aimed to accommodate the interests of the exporters (Smith 1980, 211-212), as is later exemplified by the trade negotiations between France and Switzerland. The fact that the government was concerned about the interests of the domestic economic actors is reflected in the following statement given by Jules Roche in 1891. He said that “For us [the executive], the words protection and free trade have no magical powers which allow us to dispense with the study of the facts themselves. To be sure, we are constrained in all cases to protect and encourage national enterprise, but we have never thought there way only one way to attain that end – that is, through the establishment of elevated customs duties on all products without distinction […] We have resigned ourselves in advance to attaining, in many cases, only compromise solutions, happy if we succeed […] in holding a balance
among the diverse interests for which we are responsible” (cited after Smith 1980, 212).

In the course of the tariff revision, two instruments were introduced so as to foster the executive’s bargaining power in international trade negotiation. First, the tariff schedule was redesigned and became one of the most diversified in Europe. This made it less likely that a concession granted to one country would benefit another country receiving the concession through MFN treatment. Second, the executive had emergency powers it could use to impose additional import barriers when French exports received unfavorable treatment abroad. These emergency powers were refined and extended to anti-dumping measures in the tariff law of 1910 (Haight 1941, 52-56).

International Negotiations after the Méline Tariff
The years after 1892 showed that the dual-tariff system was an impediment to international cooperation and that flexibility in form of trade agreements was necessary to maintain exports. Many of France’s trading partners were dissatisfied with the tariff levels locked into the dual-tier system and demanded reductions below the minimum duty (Brandt 1896, 198; Moye and Nogaro 1910, 51-52). Great Britain even intended to build an alliance of trading countries that could collectively retaliate against France, but these efforts failed (Marsh 1999, 177-178). Nevertheless, the French executive found it at the beginning very difficult to conclude trade agreements in which France exchanged its minimum tariff for MFN treatment (Marsh 1999, 195). The executive realized that bilateral bargaining remained necessary to keep foreign markets open and foster exporters (Haight 1941, 68-69; Smith 1980, 221). It decided to go below the minimum tariff on selected items when it received adequate concessions from the treaty partner in return (Smith 1980, 212).

A case for the problems of an inflexible dual-tier system is the Franco-Swiss negotiations of the 1890s. Switzerland considered the French minimum tariff too high. It refused to grant any reductions in its general tariff unless France cut duties on selected items below the minimum tariff. The French executive was prepared to do so, but the parliament rejected this plan. Switzerland responded by initiating a tariff war, knowing that the Swiss market was important for France. The Swiss executive applied the general tariff to French imports and additionally imposed retaliatory duties on a range of items. It took more than two years before the negotiations were resumed.
Both countries suffered from the war, but the French loss was more severe. Finally, France gave in and reduced tariffs below the minimum tariff on 29 items. Switzerland in turn granted its conventional duty and MFN treatment (Brandt 1896, 199-203; Haight 1941, 346-347).

The Franco-Spanish negotiations are also particularly intriguing, since it involved bargaining between two double-tier tariff countries. In this case, the French executive claimed that the Spanish minimum tariff was too high to grant the own minimum tariff on Spanish imports (Nogaro and Moye 1931, 62-63). France insisted on additional concessions, in particular on textiles, which were accepted by Spain after a long and complicated bargaining process. The agreement was not ratified by the French parliament, however, because it didn’t want to reduce tariffs below the minimum tariff. But the French government was able to agree on an arrangement with Spain that did not need parliamentary approval (Marsh 1999, 203).

The empirical record shows that France concluded agreements with most of its important trading partners. In most of the agreements, France was able to exchange its minimum tariff for MFN treatment, having the consequence that the minimum tariff was more often applied than the maximum tariff. However, bilateral treaties like the one between France and Switzerland undermined the dual-tier system. The reason is that France adhered to non-discrimination after 1892 (Haight 1941, 67-68). The consequence was that the conventional tariffs established through bilateral bargaining were extended to all countries that formerly received the minimum tariff (Marsh 1999, chap. 8). In effect, they created a new conventional tariff that was lower than the minimum tariff.

Conclusion
I selected the process leading to the tariff revision 1892 for analysis, since it replaced MFN bilateralism with a two-tier tariff system that was supplemented by few bilateral MFN agreements. According to my model, prevailing concerns about enforcement should explain the substitution of bilateral bargaining by multilateralism. The pursuit of a protectionist trade policy should explain the France’s abandonment of MFN treatment. As I have shown, France did not apply a pure two-tier system, but complemented it with bilateral MFN treaties. The decision to additionally conclude bilateral MFN treaties is attributable to concerns about the maintenance of exports and the

121 See chapter 3 for a detailed discussion of the classification of two-tier systems.
need to pursue liberalism on a limited scale. In particular, the reason for bilateral bargaining was the need to selectively liberalize and to balance the interests of different types of economic actors. The inclusion of MFN provisions in bilateral agreements comes from worries about retaliatory action.

Before I come to the assessment of my key hypotheses on institutional choice, I will discuss the behavior of the French economic actors. The questionnaires and parliamentary testimonies held between 1875 and 1890 reflect how the economic actors’ trade policy and institutional preferences developed in times of depression. The inquiry of 1875 displays a broad commitment to liberalization. Moreover, the chambers made two interrelated suggestions on the institutional design: to cluster the negotiations of the treaties, structuring them to start and end at the same time, and to abandon MFN treatment. At the time, it was thought that the sequential conclusion of trade agreements in combination with MFN treatment would reduce certainty about future tariff levels and competition at home.

The chambers’ suggestions can be explained on the basis of my model. I argue that clustering of sequential negotiations is a means to get tight control about the distributonal effects of sequential MFN bilateralism, which is what the chambers complained about. Theoretically, MFN treatment can be abandoned in simultaneous bilateral negotiations because simultaneity tackles the same problem for which MFN provisions are applied, provided that any country that participates in simultaneous bargaining does not conclude other agreements in the future. This would reintroduce sequentialism into trade cooperation, which would in turn necessitate MFN treatment. The later development of trade cooperation indicates that the design suggested by the chambers would not have worked. Although France clustered its renegotiations in 1881 and 1892, it was never able to enact all its agreements simultaneously. Some treaty negotiations took longer than others, so that the treaties came into effect at different points in time. Some of the French treaties were negotiated between the two clustered bargains. The fact that MFN treatment was vital in international trade is exemplified by the two tariff wars in which France was involved in the nineteenth century. Both trade wars had their sources in discriminatory treatment and MFN treatment was an essential element in settling them.

The two later inquiries reveal a clear trend toward protectionism, which is largely attributable to the depression and the beggar-thy-neighbor policies of the French trading partners. One can observe an increasing criticism of MFN bilateralism
alongside the increased popularity of protectionism. The protectionist economic actors wanted to return to a high and fixed general tariff in 1881 and even more so in 1892. This general shift in opinion among economic actors is in accord with my model inasmuch as MFN bilateralism is an instrument of trade liberalization.

Having discussed economic actors, I now turn to political actors and their institutional choice. In 1881, MFN bilateralism was maintained as the form of cooperation. The available empirical evidence suggests that my hypothesis is correct. The government of 1881 decided to adhere to this form, notwithstanding that many chambers of commerce sought the abandonment of MFN treatment. It is true that the general tariff was, on average, substantially increased in the tariff revision of 1881. Indeed, the rise in the general tariff must be read as a concession to the broadening protectionist movement in France. But it was also shown that the tariff increase served a strategic purpose. A higher general tariff strengthened French bargaining power, since it created an unfavorable non-agreement point. The fact that France was usually able to win key concessions in their new treaties proves that this strategy was successful. On the basis of these findings, I consider it safe to conclude that there was still a considerable liberal element in French trade policy as pursued by the executive.

With respect to bilateral bargaining, the empirical evidence reinforces the findings made in the analysis of the Anglo-French agreement of 1860. The executive was constrained in trade bargaining insofar as each treaty had to be ratified by the parliament. Various ministers of commerce pointed to this restriction in the international negotiations. The executive had to bargain cautiously in order not to endanger parliamentary approval of the agreements, which can be best achieved in bilateral bargaining. I have shown that the first two treaties that were submitted for ratification in 1881, the agreements with Belgium and Italy, faced heavy opposition in the parliament. It is unlikely that a multilateral agreement, one including all countries with which France had bargained simultaneously, would have found support from the parliament. Further evidence for the importance of distributional concerns can be found in the post-1882 tariff levels. It was reported that almost two-thirds of imports were taxed with the general tariff. Twenty percent of the tariffs remained at the pre-1881 levels and approximately 15 percent were cut below pre-1881 levels. This variety in tariff levels suggests that the fine-tuning of concessions was necessary, which is the key feature of bilateral bargaining.
The renegotiations of the trade agreements in the early 1880s exemplify the distributional problems of sequential bargaining. France negotiated simultaneously with a couple of countries, but it was not clustered bargaining in the strict sense, since France did not intend to enact agreements simultaneously. To the contrary, the aim of sequential treaty conclusion was to increase pressure on countries that were reluctant to sign an agreement. This objective was achieved because France came to an agreement with Belgium and Italy, thereby intimidating Britain and other Continental European countries. The French bargaining tactics were in accord with my model. It was predicted that sequentialism would increase the bargaining leverage of those countries that have treaties in place. On the other hand, the French negotiations of the early 1880s also exemplify the pitfalls of sequentialism. Once France had signed some treaties, it became more reluctant to conclude an agreement with Great Britain because of MFN treatment. France complained that Britain would receive all the concessions it would make in other negotiations, while France would not receive much in return because Britain had only few treaties in place. France was anxious that domestic producers would suffer more from increasing imports than French exporters would benefit. This behavior of France in international bargaining is in accord with my domestic politics model.

The fact that the general tariff was increased in 1881 speaks to the increasing influence of the protectionist forces in France. This rise in protectionism is even more evident in the revision of the French trade system in 1892. Tariff levels were once more raised and a two-tier system was installed. The parliamentary inquiry of 1890 showed that a considerable number of the Chambers of Commerce preferred a single protective tariff and the complete elimination of trade agreements. It was mentioned that the two advisory commissions proposed a two-tier tariff instead. They believed that a minimum of flexibility was necessary to be successful in international trade cooperation. Therefore, the introduction of a fixed minimum tariff must be understood as a concession to the liberal actors and interests in France.

A two-tier tariff gave the executive the opportunity to bargain because it could offer the minimum tariff for reciprocal concessions. However, a dual tariff places tight constraints on negotiators since they can only make take-it-or-leave-it offers. There is no room for real bargaining in which offers and requests are continuously exchanged. This is precisely the reason the protectionists sought an inflexible two-tariff system with high duties. Concerns about enforcement did not drive the develop-
4. Trade Cooperation after 1860

Development of pure multilateralism, having the consequence that my hypothesis on the determinants of multilateral bargaining does not hold for the case of France in 1892. As I explained in chapter 3, this could be expected to some degree because France adopted pure multilateralism unilaterally and not in accord with other countries. This case selection is biased against the confirmation of my hypothesis because it could be assumed that enforcement problems are difficult to resolve when other countries do not apply pure multilateralism as well.

I have shown that the executive insisted on the opportunity to negotiate trade agreements under a double-tier system. Two quotes from the French minister of commerce clearly showed that the government expected other governments to retaliate against a protective two-tariff schedule. The government considered it necessary to bargain about tariff concessions in order to satisfy the demands of French trading partners and to accommodate the interests of the own exporters, which would suffer from retaliatory action. The problems France encountered in international bargaining show that the executive’s worries were warranted. The French executive faced substantial problems concluding agreements in which the treaty partner agreed to exchange the minimum tariff for MFN treatment. In many cases, the minimum tariff was considered too high and did not match the trading partners’ specific demand. This problem was particularly apparent in the negotiations with Switzerland, which finally signed an MFN agreement with France after a tariff war, and granted selective tariff cuts reducing duties below the minimum tariff. The selection of particular tariffs indicates that bilateralism was essential to fine-tuning concession. The fact that the executive was under strong pressure from protectionists makes it appear safe to conclude that bilateral bargaining was chosen in order to keep control over the domestic distributional effects of trade cooperation.

Moreover, it is interesting to note that the few bilateral agreements that France signed included an MFN provision. This instrument, which had criticized for almost twenty years, was considered necessary by the executive even in times of high protectionist sentiment at home. This observation lends support to my hypothesis that liberalization goes along with MFN treatment, even if liberalization proceeds on such a small scale, as was the case in the 1890s.

One can make two further observations regarding the effects of institutions on trade-policy making and institutional choice. On the one hand, the legislative organization of trade-policy making mattered. The group that held a majority in the parlia-
ment and the parliamentary committees was mostly successful in pushing the trade policy in their direction. On the other hand, the legislative organization of the political process mattered only indirectly for institutional choice insofar as the type of the pursued trade policy influenced the application of MFN treatment.

Moreover, the size of a political actors’ constituency follows the hypothesized effect. The members of parliament were overwhelmingly in favor of a particular trade policy since their constituency was rather homogenous in terms of the represented economic actors. In addition, consumer interests did not matter much for members of parliament (Smith 1980, 201, footnote 10). In contrast, the executive was more concerned about the domestic distributional implications of trade cooperation because their constituency was much larger, namely, the whole country. This explains why one observes a relatively high degree of continuity in institutional design compared to the substantial changes in the attitude toward protectionism and liberalization from 1860 to 1892. Even in the period of high protection in the 1890s, an executive leaning toward protectionism relied on bilateral MFN agreements (admittedly to a lesser degree than its predecessors. Nonetheless, this observation corroborates the assumption about the effect of the size of the constituency and the importance of domestic distribution more generally.

4.3. Institutional Choice in the Nineteenth Century: Conclusion
Taking both cases together, I conclude that the institutional choice of France is well explained by my model. The adoption of MFN bilateralism as the form of cooperation in 1860 can be attributed to the two hypothesized factors; the choice of bilateral bargaining can be traced back to concerns about domestic distribution, and the application of MFN treatment can be explained by the belief that a liberal trade policy requires non-discrimination. The rival explanations carry little explanatory weight in this case.

Regarding the second case, the Méline tariff, the decision to apply pure multilateralism cannot be attributed to prevailing concerns about enforcement. Instead, pure multilateralism in the form of a two-tier tariff was adopted for protectionist reasons. However, the executive’s decision to rarely resort to MFN bilateralism is in accord with my model. This decision can be traced back to concerns about domestic distribution and the need to maintain some elements of liberalism. Because it fails to correctly explain the adoption of pure multilateralism, my model explains the second
case less perfectly than it does the first case. However, none of the rival approaches explains institutional choice in the Méline case better than my model, leaving it as the best of all available explanations.

The good performance of my model of institutional choice might come as something of a surprise. It assigns an important role to economic actors and their lobbying vis-à-vis political actors. The French political actors have been long conceived of as largely insulated from the influence of private actors. Milner (1988) shows that this view of the French state cannot be maintained with respect to the twentieth century. Her analysis of trade-policy making in the 1920s and 1970s demonstrates that economic actors had more influence on the political process than was commonly assumed. Existing studies on French trade-policy making in the nineteenth century, like those of Smith (1980) and Dunham (1971 [1930]), clearly show that this view does not hold for France in the nineteenth century either. One simple, direct channel of influence existed when economic actors, i.e., producers, were members of the parliament or the executive. A second channel of influence was classic lobbying, which came largely from the supply side. A third channel of influence, which is often neglected in trade-policy making, is the demand side. Between the 1856 and the 1890s, the executive and the parliament frequently sought the opinion of the chambers of commerce and producers through questionnaires and testimonies. The opportunity to provide (biased) information about the effects of the national trade policy – past, present, and future – allowed the chambers to influence decision-making to some degree. Milner (1997b) is one of the rare studies that assesses the role of information supplied by economic actors. The analysis of France in the nineteenth century strongly indicates that further research in this direction would be promising.
5. The Interwar Period

I will examine in this chapter two cases of institutional choice of the United States in the interwar period. The first case is the Fordney-McCumber Act of 1922. The case serves to test for the determinants of the change from pure bilateralism to MFN bilateralism. As I explained in detail in section 3.2, the Fordney-McCumber Act is peculiar in two respects. First, it did not provide for bargaining on tariff reductions, as was the rule in European trade cooperation in the nineteenth century. In the light of my model, the application of MFN provisions is an anomaly because I hypothesize that non-discrimination is used to solve the problems that arise from tariff bargaining. Second, the Fordney-McCumber duties are among the highest in the history of the United States. The combination of MFN treatment with protectionism seems to contradict my model, which expects these two issues to be incompatible. Because of these two features, the Fordney-McCumber Act is particularly valuable for my empirical analysis.

The gathered empirical evidence shows that the design of U.S. trade policy after the Fordney-McCumber Act is less in contradiction with my model than it seems at first sight. The introduction of MFN treatment was a response to retaliation and discrimination by European countries, which in turn was a reaction to protectionism and discriminatory trade by the United States. MFN treatment was applied by the United States so as to stop retaliation and promote the interests of exporters. This behavior is in accord with my model. MFN treatment did not put the protectionist Fordney-McCumber duties at risk since they were non-negotiable. The protectionist intent of the trade bill and the non-negotiability of tariff levels are attributable to a strong protectionist sentiment among political and economic actors. The unusual form of trade cooperation implemented by the Fordney-McCumber Act was rooted in an attempt to accommodate the interests of exporters and import-competers, whereas somewhat more emphasis was laid on the latter’s interests. The analysis of international cooperation after the enactment of the Fordney-McCumber Act shows that the rationale for the shape of U.S. trade policy was mistaken. The European countries wanted non-discrimination and liberalization on the side of the United States. Since protectionism prevailed in the United States after 1922, the European trading partners continued to discriminate and retaliate against U.S. imports. This finding confirms my model because of my argument that MFN treatment can only further the domestic distributional goals of the political actors of all involved countries when it is combined with bargaining about reciprocal tariff reductions.
The second case I will analyze is the *Reciprocal Trade Agreements Act* (RTAA) of 1934. The RTAA differs from the Fordney-McCumber Act in some important points. First of all, the RTAA aimed at liberalization and transferred the authority to conclude trade agreements from Congress to the president of the United States, meaning that the constituency of the actor who was responsible for trade-policy making became larger. This change in the organization of U.S. trade cooperation makes it able to assess whether institutional choice is influenced by the size of the constituency as hypothesized in section 2.5. Moreover, the RTAA replaced autonomous tariff-setting through bargaining about tariff reductions. With respect to the bargaining approach, the RTAA mandated the application of an item-by-item approach. The insistence of Congress on negotiating on an item-by-item basis enables me to search for the driving forces behind the choice of this bargaining approach. The choice of the form of cooperation was at the discretion of the U.S. administration. Although bilateral bargaining and MFN treatment had been the pillars of U.S. trade cooperation in the previous twelve years, it was far from clear in 1934 and 1935 which form of cooperation would be chosen. The decision-making process finally resulting in the application of non-discriminatory treatment gives me the opportunity to discern the determinants of MFN bilateralism.

The analysis of the RTAA shows that the item-by-item approach and bilateral cooperation was chosen in order to keep tight control over the domestic distributional effects of trade liberalization. This observation fully confirms my conjecture on the choice of bilateral bargaining and the item-by-item approach. The balance-of-payments hypothesis receives empirical support too, since concerns about the balance of payments reinforced the decision for bilateral and selective bargaining. I will further show that there was a dispute within the government about whether to make MFN treatment a central pillar of future trade cooperation. The opponents of non-discrimination claimed that this would undermine the control over imports and the extent of import-competition for domestic producers. Moreover, this group argued that it would become more difficult to manage the effect of trade on the balance of payments. On the other hand, the proponents of MFN treatment aimed to benefit the exporters within their own constituency. Besides, discriminatory trade was seen as a source of international conflict and, in the extreme case, war. These findings corroborate my domestic support model of MFN treatment and further lend support to the balance-of-payments hypothesis and the ideas-approach.
Moreover, I find evidence supporting the hypothesis on the link between the size of the constituency and institutional choice. The narrow constituency interests of the members of Congress made it almost impossible to pursue reciprocity. The very large constituency of the president, in contrast, rendered it feasible to trade the interests of different economic actors against each other. It can be further shown that the implementation of the RTAA by the State Department did not offset the logic of balancing that underlies my domestic support model. The State Department tried to achieve general foreign policy goals through the RTAA, thereby neglecting the domestic perspective. However, the State Department was restricted in putting foreign policy objectives first, since domestic political and economic actors lobbied vis-à-vis the President Roosevelt and other departments that could not disregard their constituents’ interests. Finally, I will present evidence that the United States experienced internalized enforcement problems that arose from MFN treatment in sequential bilateral negotiations. This finding is in full accord with my arguments on the compatibility of non-discrimination under sequential bargaining. I will conclude that my domestic politics model explains well the behavior of the United States and that neither of the competing explanations has more explanatory power.

5.1. The Fordney-McCumber Act of 1922

The Prelude to the Fordney-McCumber Act

The U.S. Congress held the authority of tariff-making until the RTAA, and had implemented a variety of forms of trade cooperation since the late nineteenth century. The general position of the Republican and the Democratic Parties on trade policy can be summarized as follows. The Republicans claimed that protectionism creates jobs and spurs growth, whereas free trade causes higher unemployment and harms the domestic economy. The Democrats disagreed and argued that liberalization would increase the standard of living through low consumer prices. The Democratic Party did not pursue free trade, however, because the tariff was the main vehicle for generating federal revenue. The Democrats sought a duty that produces a balanced federal budget and provides sufficient, yet not excessive, protection for domestic producers. Both parties’ rhetoric that they pursue the citizen’s interest should not conceal that, in practice, the Democrats and the Republicans attached much value to the interests of domestic producers within
their core constituency (Goldstein 1993, 91-92). Having clarified that, I will now discuss the tariff acts that preceded the Fordney-McCumber Act.\footnote{The U.S. Congress had passed tariff laws since the beginning of the USA (cf., Ratner 1972). For my purposes, it suffices to begin the discussion of tariff laws with the McKinley Act of 1890. This bill was the first one to invent bargaining into U.S. trade policy (Williams 1929).}

The first trade bill to mention is the *McKinley Tariff Act* of 1890.\footnote{The bill is named after *William McKinley*, then chairman of the House Ways and Means Committee.} The elections of 1888 had provided the Republicans with a majority in the House of Representatives and brought the Republican *Benjamin Harrison* into the White House. The government aimed to export more output of the maturing industrial sector to Latin American countries. The idea was to impose duties on agricultural imports from Latin America in order to create an incentive for the negotiation of reciprocal trade agreements. The Republicans in Congress, however, kept agricultural imports from Latin America on the free list, containing all items that were imported duty-free. This decision aimed to further the interests of producers that demanded cheap imports from Latin America. The domestic producers that were harmed by the free import of Latin American goods were entitled to state subsidy. In addition, Congress opposed any bargaining provision because it considered tariff-setting as the prerogative of Congress.

However, the Republicans were not blind to the interests of exporters. President Harrison was authorized to impose penalty tariffs on those Latin American countries that charged “reciprocally unequal or unreasonable” tariffs on imports from the United States in order to encourage them to eliminate their duties. The president was further allowed to conclude reciprocal trade agreements that assured mutual duty-free access for particular goods. President Harding’s scope of action was rather limited, since Congress specified the size of the penalty duties and the goods on which they could be imposed (Eckes 1995, 70-72; Goldstein 1993, 104-107; McClure 1924, 92-93; Ratner 1972, 36-37; Williams 1929, 269-270).

The penalty provision proved partially successful. Most of the Latin American countries signed trade agreements with the United States, so that the penalty duty was only applied to three states (Eckes 1995, 74; McClure 1924, 92-93). On the other hand, the McKinley tariff provoked retaliatory action by European trading partners. The industrial development of the United States rendered its exporters increasingly competitive in European markets (Becker 1982, 72). The European exporters faced high tariff walls and discriminatory treatment by the United States that preached equal treatment.
and liberalization vis-à-vis Latin America (at least with respect to certain goods). As a consequence of this, many European states responded to the McKinley Tariff Act through retaliation and protective tariffs on U.S. imports (Williams 1929, 270-275).

The Wilson-Gorman Tariff Act of 1894 marks an almost complete reversal of the U.S. trade policy embodied in the McKinley bill. The Democrats seized power in the House of Representatives shortly after the enactment of the McKinley Tariff. Moreover, the Democrat S. Grover Cleveland became president of the United States. The Democrats in the Congress produced a trade bill that was much less liberal than originally envisaged. The average tariff level of the Wilson-Gorman Act was nearly identical to the average McKinley tariff. One factor that contributed to this outcome was a worsening state of the domestic economy that Democratic senators responded to by not liberalizing trade (Goldstein 1993, 107-111). In addition, the Democrats argued that Congress should not transfer any tariff-setting authority to the president. They repealed the penalty duty provision and the reciprocity agreements that were signed under the McKinley Act were terminated. This move aroused much protest among exporting industries because the Latin American countries responded by increasing their tariffs on U.S. imports. (Becker 1982, 71; Eckes 1995, 74; Ratner 1972, 38; Williams 1929, 271).

The Dingley Tariff Act replaced the Wilson-Gorman bill in 1897. The Republican William McKinley had won the presidential election of 1896. In the face of a recession, McKinley soon demanded that Congress revise U.S tariffs upwards. In its final version, the Dingley Act witnessed the highest average tariff the United States had ever seen since its foundation. The tariff increases stimulated protests from European countries that wanted easier access to the U.S. market. Furthermore, McKinley sought a broad mandate to negotiate reciprocity treaties. He made clear that he and the Republican Party were committed to a no-injury principle, meaning that export-promotion should not come at the expense of domestic producers (Eckes 1995, 75; Goldstein 1993, 112-115). The Congress refused to follow McKinley’s request and introduced three detailed reciprocity provisions instead.

The first clause authorized the president to offer concessions on a small number of items that were specified by Congress, and to conclude reciprocity agreements that guaranteed non-discriminatory treatment of these items. The agreements did not require

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124 This tariff act is named after William L. Wilson, chairman of the House Ways and Means Committee, and Arthur P. Gorman.

125 The Dingley bill is named after Republican Nelson Dingley jr. who was chairman of the House Ways and Means Committee.
ratification by Congress. The prime objective of this bargaining provision was the elimination of unfavorable treatment by European countries. If possible, the president should also try to achieve special treatment for selected export articles. McKinley signed a handful of so-called *argol agreements* on the ground of this provision.\(^{126}\) These agreements ensured non-discrimination abroad, but their actual economic impact was marginal because of the short list of items the U.S. negotiators could offer. Moreover, many European countries refused to enter into trade agreements with the United States because of its protectionist stand and the absence of MFN treatment (Eckes 1995, 75-76; Goldstein 1993, 114-115; McClure 1924, 94-95; Williams 1929, 275-276).\(^{127}\)

Thirteen treaties were negotiated on the basis of the second reciprocity provision, which allowed the government to reduce duties up to 20 percent on any item and to transfer natural imports to the free list in exchange for equivalent concessions. The agreements had to be negotiated within two years after the enactment of the Dingley bill, would last five years at maximum, and needed to pass both chambers of Congress. None of the 13 agreements actually passed Congress. The reason for this was that the treaties were expected to violate McKinley’s no-injury commitment, meaning that they pitted domestic producers against exporters. The Republican party, which held majorities in both houses of Congress, leaned more toward the protectionist interest groups, so all trade agreements were rejected in the end (Becker 1982, 76; Eckes 1995, 76-77; McClure 1924, 94-96).

The third reciprocity provision of the Dingley Act provided for penalty duties much like the McKinley Act of 1890. The goal of this provision was to eliminate “reciprocally unequal and unreasonable” treatment. Congress compiled a short list of agricultural imports from Latin American countries that could be made subject to penalty tariffs. This provision did not have any effect at all, and no treaty was concluded on the basis of this provision (McClure 1924, 95-96).

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\(^{126}\) The label “argol agreements” goes back to the fact that argol was the first item enumerated in the list of goods the president was allowed to negotiate about.

\(^{127}\) The general mood of the trading partners of the U.S. can be summarized by the words of John A. Kasson, who negotiated the treaties on behalf of the United States: “The condition of commercial feeling in Europe as I found very soon after undertaking these [Dingley] duties, was exceedingly hostile to the United States. […] In that state of feeling, at first, there seemed no disposition anywhere on the continent of Europe or in the Governments of South America to take any steps under the reciprocity clauses of the bill.” (cited after Laughlin and Willis 1903, 300).
The Payne-Aldrich Tariff Act was implemented in 1909, which was one year after the Republican William Howard Taft became president.\textsuperscript{128} Both public opinion and Taft were in favor of liberalization, but the Republicans in the House and the Senate gave the bill a strongly protectionist touch. Numerous tariffs were increased in order to satisfy the producers within their constituency (Goldstein 1993, 115-117). Moreover, the Payne-Aldrich Act replaced the reciprocity provision with a dual-tier system similar to those that were implemented in many European countries in the late nineteenth century (cf., Bairoch 1989). On the one hand, this change in the institutional design was attributable to the lobbying of protectionist producers who feared that tariff bargaining would increase foreign competition in the long run (Eckes 1995, 81-82). On the other hand, export-oriented politicians and producers considered the McKinley reciprocity treaties a failure for the reasons mentioned above. They now sought the invention of a double-tariff system as well in order to receive equal treatment abroad (Becker 1982, 78).\textsuperscript{129}

The lower duty of the new tariff schedule was equal to the Payne-Aldrich tariffs. The upper tariff was equal to the lower one plus 25 percent of the ad valorem rate. It was to be imposed by the president on imports from countries that “unduly” discriminated against U.S. imports (McClure 1924, 66-68). The double-tier system had little effect in practice, because the president decided to grant the lower tariff to all treaty partners (Goldstein 1993, 117-118; Ratner 1972, 41-43; Williams 1929, 276-277). According to the State Department, which administered the double-tariff scheme, fixed upper and lower tariffs were too rigid in order to stop European discrimination and promote exports (Becker 1982, 82-83; Eckes 1995, 82). The State Department drafted a bill authorizing the president to impose retaliatory duties in 1911, but the trade act was not submitted for ratification to Congress (McClure 1924, 68-71).

The Underwood-Simmons Tariff Act replaced the Payne-Aldrich Act in 1913.\textsuperscript{130} Woodrow Wilson had become president of the United States in 1912 and the Democratic Party had regained the upper hand in both houses of Congress. The Democrats sought

\textsuperscript{128} The trade act is named after Sereno Payne, chairman of the House Ways and Means Committee, and Senator Nelson W. Aldrich.

\textsuperscript{129} Sereno Payne made clear that the dual-tier schedule served a protectionist and an export-oriented motive at the same time. He stated that “Our rivals in trade, Germany and France, have adopted a maximum and a minimum tariff, and under our existing law we are unable to obtain their minimum rate without too great a sacrifice to American industry. We can only meet them on their own ground with a maximum and minimum tariff.” (cited after McClure 1924, 64).

\textsuperscript{130} The bill is named after Oscar W. Underwood, chairman of the House and Means Committee, and Furnifold McLendel Simmons, chairman of the Senate Finance Committee.
trade liberalization with the aim of decreasing consumer prices and increasing the competitive pressure for the big trusts that had formed in the United States (Taussig 1967, 448). A downward revision of the tariff was strongly opposed by the domestic producers that had benefited from protection since the end of the Civil War, most notably the agricultural producers. However, the Democratic majority in both chambers of Congress guaranteed enactment of the new tariff bill (Ratner 1972, 44-45).

Trade liberalization was accompanied by the introduction of an income tax in order to compensate for the loss in revenue that was expected to occur. Furthermore, a reciprocity provision was reintroduced, authorizing the president to negotiate reciprocal trade agreements (Goldstein 1993, 118). The trade act allowed the president to negotiate reciprocity agreements “for the purpose of readjusting the present duties on importations into the United States and at the same time to encourage the export trade of this country” (cited after McClure 1924, 96). The presidential authority was neither limited in relation to the items to be included in an agreement, nor with respect to the maximum concession to be granted. However, the treaties were subject to approval by Congress (McClure 1924, 96-97). The unilateral reduction of tariffs pleased the Democrats’ constituency inasmuch as consumers and import-seekers were concerned. But it quickly turned out that this move was to the detriment of the exporters, because the moderate Underwood-Simmons tariffs provided insufficient incentives for foreign countries to enter trade negotiations (Eckes 1995, 85-86).

The Fordney-McCumber Act in Congress
The Underwood-Simmons Act could not show effect in the long run because of the worldwide economic deteriorations caused by World War I (cf., Horowitz 2004). Imports from Europe increased less than would have probably been the case in peacetime. On the other hand, U.S. exports expanded substantially. The allied countries bought large volumes of goods produced in the United States and European exports ceased to compete with U.S. exports in the markets of third countries.

The situation changed after the end of World War I. The European economies recovered and their exports to the United States increased. On the export side, exporters from the United States experienced increasing competition in foreign markets because of the steadily improving competitiveness of European exporters (McClure 1924, 111). The economic revival coincided with the termination of many import embargoes the United States had installed during the war. Producers in the United States, agricultural
producers in particular, suddenly experienced increasing competition, the oversupply of goods, and falling prices. As a consequence, the demand for protectionism increased (Taussig 1967, 450-452).

Domestic producers calling for more protection faced a favorable domestic political constellation. The Republicans gained a majority in both chambers of Congress in 1918, and the Republican Warren G. Harding entered the White House in 1920. The traditionally protectionist mood of the Republican Party met with the desire for economic self-sufficiency and a sense of nationalism among the members of Congress that further contributed to protectionism (Kelly 1963, 9; Taussig 1967, 449).

The first political response to the demand for more protection was the Fordney Emergency Tariff Act of 1921. The bill was prepared by the Republican Joseph W. Fordney, who chaired the House Ways and Means Committee, and the Republican Porter McCumber orchestrated the discussion of the draft in the Senate Finance Committee. The Democrats opposed the emergency bill, arguing that it would depress revenue and would stimulate foreign retaliation. Nonetheless, the Republicans increased tariffs on a broad range of agricultural goods, since the agricultural sector had suffered most from the changing economic conditions. Moreover, the wartime system of embargoes was maintained on some goods for a couple of months (Eckes 1995, 88; Goldstein 1993, 122-123; Kaplan and Ryley 1994, 100-102; Kelly 1963, 6-8; Ratner 1972, 46-47).

Soon after the passage of the Fordney Emergence Tariff Act, the Republicans launched a comprehensive tariff revision that culminated in the Fordney-McCumber Act of 1922. The U.S. Tariff Commission had reviewed the state of United States trade policy parallel to the preparation of the emergency act. The commission concluded that the past policy of demanding and granting special concessions had failed in most instances and recommended seeking mutual non-discriminatory treatment. The achievement of this goal was to be fostered by the imposition of penalty duties on the imports of all countries that discriminated against the United States. President Harding followed the advice of the Tariff Commission and requested Congress to revise U.S. trade policy along these lines (McClure 1924, 72-74). Harding sought a penalty provision as suggested by the Tariff Commission, which would allow for flexibility in application. Representatives of the administration declared that “Each case would be considered on its own merits, and obviously the penalties would not be put into force unless, after full consideration of all political and economic effects, it should be decided that more is to be gained than to be lost by the application of penalties” (cited after Eckes 1995, 89).
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flexible provision was also demanded by the National Foreign Trade Council, the leading organization representing exporter interests. It was concerned about protectionism in Europe after World War I, but it acknowledged that protectionism might be necessary as a temporary measure to stimulate recovery. The greater concern of the National Foreign Trade Council was discrimination against U.S. exports that could be potentially prevented through penalty duties (Becker 1982, 168-171).

Fordney took the initiative for an upward revision of the Underwood-Simmons duties most of which were still in effect. The average tariff of the Fordney draft was higher than ever before in the history of the United States. Moreover, Fordney aimed to install the American Valuation Plan (AVP). The AVP should have been used to determine the ad valorem tariff rates of imports into the United States. It was no secret that the AVP was protectionist in intent, since the American valuation procedure would have produced higher duties compared to the foreign valuation procedure that was then applied. Furthermore, Fordney proposed keeping a few of the wartime embargoes, in particular those on dye and chemicals (Kaplan and Ryley 1994, 103-105).

However, the House did not follow President Harding’s request for a flexible bargaining provision that would allow him to achieve equal treatment. Instead, the House introduced the sections 301, 302, and 303 in the draft bill. Section 301 authorized the president to conclude reciprocal agreements in which the United States and the contracting partner exchange special concessions, meaning that the treaties should not aim at achieving non-discriminatory treatment. There was no restriction on what items to include in the agreements or the maximum size of the tariff cuts, but they needed to be ratified by Congress.

Section 302 provided for the increase of tariffs on a specific item by the president if the foreign duty on the same or similar item was “higher and reciprocally unequal and unreasonable”. This meant that the president had to compare the domestic and foreign duties that were imposed on the same or similar goods and to assess whether the difference was unreasonable (given that the foreign tariff was the higher one). If the difference was deemed unjustified, the president had to levy penalty duties to nullify the difference.

Section 303 was similar to section 301 in intent, but contained a couple of restrictive provisions. On the one hand, there was no restriction on the items to negotiate about, and the agreements did not require approval by Congress. On the other hand, the treaties were to be negotiated within three years after enactment of the tariff act, had a
maximum duration of five years, and tariff cuts were limited to 20 percent (Eckes 1995, 89; McClure 1924, 97-99).

The Fordney draft had already triggered negative foreign reaction at this early stage. Argentina, Spain, and Cuba announced that they were preparing retaliatory tariff legislation that would be enacted if the Fordney draft became official. Furthermore, the Fordney bill provoked the response of domestic companies. Import-users complained about tariff increases and the establishment of the AVP that would increase their production costs. On the other hand, import-competitors welcomed precisely these features of the Fordney draft and sought its quick enactment (Kaplan and Ryley 1994, 105-107).

The discussion of the Fordney draft in the Senate Finance Committee, which was chaired by McCumber, took place under massive lobbying of domestic companies and interest groups. Protectionist groups announced that they expected the members of Congress representing their constituency to support higher barriers to trade. Otherwise, they would cease to provide support in the future. Associations representing consumers and importers pushed for a moderate tariff bill that would not cause higher prices. The Democrats in the Senate sided with these groups and claimed that higher tariffs would benefit domestic producers at the expense of consumers and diminish market access abroad because of foreign retaliation (Goldstein 1993, 119; Kaplan and Ryley 1994, 105-116). The tariff levels stipulated in the draft of the Senate Finance Committee largely reflected the concerns of the protectionist Republicans. Agricultural and industrial producers held close ties to the Senators who supported each other in their requests to increase tariffs on those goods that mattered most to their respective constituency. Consequently, the Fordney tariffs on agricultural and manufactured goods were increased further (Taussig 1967, 454). The American Valuation Plan, however, was dropped from the bill at this stage (Eckes 1995, 90).

Moreover, the Senate Finance Committee substantially revised the bargaining provisions of the Fordney draft. The committee felt that the sections 301, 302, and 303 were inappropriate to promote exports, which was, as the statement by President Harding showed, one of the main purposes of the new tariff act. It was expected that the exchange of special concessions and tariff increases as a response to differences between domestic and foreign tariffs would trigger retaliation. The Senate Committee as well as exporting producers considered the offer of non-discriminatory treatment more suitable as a means for export promotion (McClure 1924, 99-101). Consequently, sections 301, 302, and 303 were eliminated from the bill and Senator Reed Smoot, who was later one
of the chief sponsors of the protectionist Smoot-Hawley Act, introduced section 317 instead. This provision granted the president the right to impose penalty duties as a response to foreign discrimination. The Finance Committee tightened Smoot’s proposal by making presidential action mandatory if discrimination was found (Eckes 1995, 89; McClure 1924, 75).

The State Department welcomed this change in the draft because of its compatibility with the MFN principle. The House bargaining provisions in section 301 and 303 aimed to achieve special concessions and were based on the understanding of discriminatory trade. The prime goal of the U.S. government, however, was mutual non-discrimination (Eckes 1995, 89-90; Williams 1929, 277-278). In the words of two State Department officials, section 317 represented “a valuable weapon of defense against discriminations affecting American commerce” (cited after Eckes 1995, 90). Although Congress did not explicitly mandate the conclusion of commercial agreements, it was clear that the implementation of section 317 would be accompanied by negotiations on trade treaties assuring mutual non-discrimination (McClure 1924, 117-118).

The Senate Finance Committee submitted the draft to the Senate for consideration. The discussion in the Senate shows that there was confusion about the scope of section 317. The question was whether the United States should retaliate against any foreign discrimination, or should allow exchanging special concessions through trade agreements that discriminate against U.S. imports. Some Senators argued that section 317 should not be invoked when discrimination against the United States resulted from trade agreements with which the treaty partners had exchanged special concessions. This position was in accord with past behavior of the United States, which had almost exclusively concluded treaties excluding MFN treatment in the past. Another group of senators argued for a broad applicability of section 317. They considered any form of discrimination against U.S. imports undue, independently of whether it was attributable to unilateral action or to a trade agreement.

The Senate finally adopted a broad interpretation that made any foreign action causing discriminatory treatment subject to the imposition of penalty duties. The majority of the Senate adopted this position because of concerns that a narrow application of section 317 would make it impossible to tackle a considerable part of foreign discriminatory behavior (McClure 1924, 77-87). The U.S. Tariff Commission was assigned to
assist the president in identifying foreign discriminatory treatment and recommending appropriate countermeasures (McClure 1924, 27-30).\textsuperscript{131}

In addition to section 317, the Senate drafted sections 315 and 316, which were closely related to the penalty duty provision. Section 315 made the equalization-of-costs principle part of U.S. trade law. This was the first time the equalization of costs received official status, notwithstanding that this principle had played an important role in U.S. trade policy long before. Under the assistance of the Tariff Commission, the president was authorized to increase or decrease the Fordney-McCumber duties up to 50 percent if this was necessary to equalize the costs of production at home and abroad. The president was required to fix the new tariff level on the basis of the American Selling Price (ASP). The ASP was a modification of the AVP that Fordney wanted to apply to imports generally so as to increase protection for domestic producers. Section 316 targeted at dumped imports. The president was required to increase the tariff by the rate necessary to offset the effects of dumping when the Tariff Commission found unfair practices in the importation of goods (McClure 1924, 50-54).

The tariff bill, as it passed the Senate, contained one more provision that aimed at export promotion, but contradicted the spirit of section 317. I have mentioned above that the House drafted section 302, which declared it undue if the foreign tariff was unreasonably higher than the domestic tariff. This “matched-tariffs provision” would have been a general principle of U.S. trade policy if section 302 had come into existence. The Senate downscaled this provision by specifying dozens of items to which the matched-tariff rule would apply. The applicability of section 302 was limited, since it was expected that its across-the-board application would encourage widespread dissatisfaction among the trading partners (McClure 1924, 139-141). The matching-tariffs rule, as specified by the Senate, was not an entirely new element in U.S. trade cooperation. Varieties of this stipulation had been part of U.S. trade legislation since the McKinley Act of 1890. However, all the predecessors of the Fordney-McCumber provision had been much more limited in scope and did not contradict the pursuit of a provision equivalent to section 317 (McClure 1924, 158-161).

\textsuperscript{131} I have argued in section 2.4 that trade cooperation is self-monitoring, meaning that exporters will report to their government any foreign defection or other “undue” behavior. This argument is supported by the procedure with which the Tariff Commission tried to assess the degree of foreign discrimination. Among other things, the Commission asked exporters whether they felt discriminated abroad (McClure 1924, 28).
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The Senate approved the revised bill and submitted it to the Conference Committee, where five members of the House and five members of the Senate worked on a compromise. Fordney and McCumber led the delegations from the House and the Senate respectively. The compromise that was reached resembled the Senate draft more than the House version of the new tariff bill. The tariff levels were closer to the Senate proposal, meaning that U.S. duties were increased more than originally intended by the House.

Section 317, which authorized the president to impose penalty duties as a means of achieving non-discrimination, was not altered. The delegates of the House now welcomed the provisions introduced by the Senate, saying that it “follows the precedent established by a maximum and minimum provision of the Payne-Aldrich Act, which had for its purpose the obtaining of equal treatment for American overseas commerce. The Senate amendment, however, is more flexible than the provision of the Payne-Aldrich Act and is designed to reach every form of discrimination, direct or indirect, whereby American commerce is placed at a disadvantage as compared with the commerce of any foreign country.” (cited after McClure 1924, 31). Furthermore, the Conference Committee installed an excessive duty on potash and prolonged the embargo on dye imports at the request of the chemical and agricultural lobbies which sought protection from European imports. The embargo on dye went back to World War I and was provisionally extended by the Fordney Emergency Act of 1921, but it had not been part of the tariff bill until its inclusion in the Conference Committee draft (Taussig 1967, 472-477).

These two amendments to the tariff act aroused much opposition among members of the Republican Party in the House that had to approve the compromise (the Democrats opposed this draft anyway). The source of division within the Republican party was opposition by domestic producers that demanded low-cost dye and potash, e.g., producers of textiles. The Conference Committee compromise that included the excess duties and embargo failed to pass the House. It was only after the removal of the dye and potash provisions that the draft received a majority. The Republican majority in the Senate approved the revised bill. It left Congress after more than one year of debate and was signed by President Harding in September 1922 (Kaplan and Ryley 1994, 117-119). In its final form, the Fordney-McCumber Act represents one of the most protec-

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132 It should be noted that the elimination of foreign discrimination did not only cover differential treatment of imports. The U.S. Congress also aimed to abandon practices that benefited the industries of other countries more. An example for such a practice is an export duty that is higher for exports to the U.S. than for other countries (McClure 1924, 47-50).
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Protectionist trade policies were prevalent after World War I. At the beginning of the 1920s, almost all countries considered protectionism the individually optimal trade policy for recovering from the adverse economic consequences of the war (cf., Horowitz 2004; Kindleberger 1989). On the other hand, widespread protectionism was seen as a risk for the international economic system. Because of this, the international community convened at a series of international conferences in the 1920s in order to achieve coordinated trade liberalization, or at least a halt of protectionism (McClure 1924, 321-330; Nations 1945).

One obstacle to accord at these conferences was the dissatisfaction of many countries with the Fordney-McCumber Act. Numerous European countries declared the bill ill-conceived because of the positive balance of payments of the United States and the negative balances of the European countries. U.S. exports far exceeded imports throughout the early 1920s. In addition, the United States had lent European countries around ten billion U.S. dollars during and after World War I. Germany was further required to pay around 33 billion U.S. dollars of reparations to the allied countries that had beaten Germany. This constellation put the balance of payments of many European countries under serious stress because of a steady drain of gold that in turn put pressure on the exchange rate. In 1923, it turned out that Germany would be able to pay its reparations. As a response to these developments, the concerned countries agreed on the Dawes Plan in 1924 that, among other things, rearranged the system of repayments and reparations.

The Fordney-McCumber tariffs were a major obstacle to a smoothly operating system of reparations and repayments. In the “textbook” scenario, the United States (the country with a positive balance of payments) would have liberalized its trade policy. Lower tariffs would have spurred European exports to the United States and promoted the flow of currency from the United States to Europe. The protective Fordney-McCumber Act prevented such an adjustment process. Some members of Congress recognized the interplay between trade and repayments and urged reducing the Fordney-McCumber tariffs in order to ease pressure on the European balance of payments. These claims were echoed by warnings of the financial sector and exporters. They argued that
the combination of protectionism and the insistence on repayments was problematic and would cause a recession and shrinking exports in the long run. The voices that urged a different trade policy because of the balance-of-payments problem were in the minority, so U.S. tariffs were not revised downward. Moreover, Congress considered the tariff a domestic issue that should not be subjected to bargaining. This attitude toward international cooperation made it almost impossible for the United States to participate in a concerted action toward tariff reduction (Kaplan 1996, 11-13; Kelly 1963, 4-6; McClure 1924, 322-323; League of Nations 1945, 14-15).

A large number of countries retaliated against the United States as a consequence of the failure to achieve agreement at the conference. The group of retaliating states included large countries, e.g., Canada, France, and Spain, and small countries, e.g., Bulgaria, New Zealand, and Australia alike. Besides the concerns about unfavorable balances of payments, many of these states justified retaliation with the arguments the United States had used to defend the enactment of the Fordney-McCumber Act. It was contended that domestic producers ought to be sheltered from foreign competition, thereby promoting employment and higher wages at home (Kaplan 1996, 13-14; Kaplan and Ryley 1994, 128).

The discussion of the historical process leading to the Fordney-McCumber Act showed that discrimination and retaliation against U.S. imports was not a new experience for the United States. In the words of officials from the State Department, it had been learned from the past that discriminatory treatment of imports creates “antagonism, promotes discord, creates a sense of unfairness and tends in general to discourage commerce. […] Special concessions secured by reciprocity transactions are not generally worth their cost. [MFN provisions] eliminate conflict, prevent charges of unfairness, promote commerce and improve international relations” (cited after Eckes 1995, 90). The State Department believed that threatening the imposition of penalty duties in combination with the offer to conclude reciprocal MFN agreements would suffice to achieve equal treatment abroad. I have shown above that penalty duties and the conclusion of trade agreements had been central components of U.S. trade policy since 1890 (with interruptions). The new element in U.S. commercial policy was the adherence to mutual MFN treatment. Except for a very few agreements, the United States had cooperated exclusively on the basis of conditional most-favored-nation treatment prior to the Fordney-McCumber Act (Eckes 1995, 89-91; Hornbeck 1910; McClure 1924, 170-187; Viner 1924).
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The Fordney-McCumber Act as such did not mandate MFN treatment. However, I have mentioned above that the State Department indicated during the Congressional debate that it strongly leaned toward non-discrimination. After both houses of Congress had approved the Fordney-McCumber Act, Secretary of State Charles Evan Hughes approached President Harding in order to get the authority to introduce the MFN principle into U.S. trade policy. Harding followed Hughes’s request, stating that he was “well convinced that the adoption of the unconditional favored nation policy is the simpler way to maintain our tariff policy in accordance with the recently enacted law and is probably the surer way of effectively extending our trade abroad.” (cited after McClure 1924, 234-235). Hughes informed his diplomats all over the world about the change in U.S. trade policy in order to prepare them for future trade negotiations. He explained that “The enlarged productive capacity of the United States developed during the World War has increased the need for assured equality of treatment of American commerce in foreign markets.” He proceeded by clarifying the new objective of the United States, saying that “The United States […] will offer nothing more than a guarantee of the treatment, which, in practice, it already accords to the commerce of other countries.” (cited after Eckes 1995, 91).

The State Department started its preparations for trade negotiations by compiling a list that determined the order in which the United States planned to negotiate with other countries. Latin American states were to be approached first, followed by European countries. Spain and France were among the last countries in the ranking. The two big European states were important trading partners and had the longest tradition of discriminating against U.S. imports. The State Department intended to conclude MFN treaties with the other trading partners first and hoped that this would steadily increase the incentive for Spain and France to conclude agreements on their own (Eckes 1995, 92).

It should be noted that Congress and the government acknowledged that there were legitimate reasons for treating imports from the United States worse than imports from other countries. This made the identification of foreign discriminatory practices even more complicated than it was anyway (McClure 1924, 30-43). But the technical problems of distinguishing acceptable from undue discrimination were not the main source of failure in achieving equal treatment abroad. Notwithstanding that the State Department had clear objectives and aimed to prove that it could promote exports (cf., Becker 1982), it hesitated to charge penalty duties, or even to threaten their imposition, in order to render the conclusion of reciprocal MFN agreements attractive for foreign
countries. The threat of levying penalty duties required some degree of ruthlessness that ran counter to the usual habit of diplomats. Moreover, the Tariff Commission was responsible for initiating inquiries on undue foreign treatment and recommending the use of section 317. The division of labor in administering section 317 further complicated the threat and impositions of penalty tariffs (Eckes 1995, 91-93; Kaplan and Ryley 1994, 127-128; Ratner 1972, 48-49; Taussig 1967, 481-485).

By the end of the 1920s, the State Department could negotiate 21 bilateral MFN treaties and 22 bilateral agreements that did not cover an MFN clause. The State Department completely failed to negotiate any kind of agreement with most of its important trading partners, e.g., Canada, Britain, and Germany. The penalty duty provision showed itself to be less effective than expected when passing the Fordney-McCumber Act. The diplomats were often told in negotiations with their bargaining partners that MFN treatment by the United States was insufficient to conclude an agreement. The European negotiators argued that they wanted easier access to the U.S. market, and not just equal treatment with other countries. This demand stood in contrast to the State Department’s only goal, namely, to achieve foreign non-discriminatory treatment. The reason that accounted for this difference in the bargaining positions was that U.S. exporters had become increasingly competitive since World War I. They had fewer problems in entering European markets than vice versa (Eckes 1995, 91-93; Tasca 1938, 118-121).

Another factor that caused dissatisfaction abroad were the matched-tariff clauses of the Fordney-McCumber Act. The historical record shows that the United States invoked this provision frequently, meaning that the already high Fordney-McCumber tariffs were raised even more for imports from a particular country. Moreover, the matched-duties provision nullified the commitment toward non-discrimination. The increase of duties and the abandonment of the non-discrimination principle created serious discontent abroad and occasionally prevented the United States from receiving non-discriminatory treatment from foreign countries (McClure 1924, 144-158; Tasca 1938, 124).

Based on their experiences at the negotiating table, State Department officials changed their opinion. They became prepared to make reciprocal tariff cuts in order achieve reciprocal MFN treatment and promote exports. But tariff-setting still lay in the hands of Congress. The State Department demanded the authority to reduce tariffs in reciprocal bargaining, but the mood in Congress was strongly against such a change in the mid-1920s. The State Department even had problems getting those MFN agreements
ratified that had been negotiated on the ground of the Fordney-McCumber Act. The reluctance of Congress made it occasionally necessary to exchange MFN treatment by executive decree (Eckes 1995, 93).

Conclusion
The Fordney-McCumber Act marks the change from pure bilateralism to MFN bilateralism in the history of U.S. trade policy. At the same time, the Fordney-McCumber bill represents one of the most protective pieces of trade legislation the United States has ever seen. The combination of MFN treatment with a protectionist trade policy stands in contrast to my model, which predicts these two issues to be incompatible. The empirical analysis of the Fordney-McCumber Act served to identify the reasons for linking MFN treatment to protectionism. Moreover, the goal was to explain the choice of the bilateral bargaining and the item-by-item approach.

First of all, the case of the Fordney-McCumber Act shows that trade-policy making generated much activity of domestic economic actors that were affected in one way or the other. Domestic producers that had benefited from high protection since the Civil War pushed for the preservation of high duties. On the other hand, it could be shown that protectionism came at the expense of consumers, import-users, and exporters. I have presented evidence that each of the three groups lobbied the members of Congress and the president to lower tariffs. Consumers sought tariff reductions on all imports, while import-users particularly demanded tariff reductions on raw materials the United States could not produce in sufficient quantity domestically. Exporters were aware of the interaction between domestic and foreign tariff-setting and warned regularly that they would experience foreign retaliation. The historical record shows that these warnings were not without reason, since the trading partners frequently retaliated against the United States. The exporting producers recognized that their interests could only be furthered by opening the domestic market through reciprocal bargaining.

The agricultural producers form a particularly intriguing group of economic actors that exemplifies the value of distinguishing the types of economic actors as I did. In essence, agricultural producers belonged to all three types of organized economic actors. They demanded liberalism with respect to the manufactured goods that they needed for domestic production. In times of crisis, they behaved like an import-competer and sought protectionism from Latin American and European imports. They took the position of exporters when they aimed to sell their surplus abroad. The varying
behavior of the agricultural sector can only be understood if one applies the distinction that I detailed in section 2.2. All in all, the empirical evidence clearly shows that the different types of economic actors were pitted against each other and sought contradictory trade policies.

The observed domestic constellation conforms to my expectations and, equally important, it had the hypothesized effects on institutional choice. I start my discussion with the most interesting aspect of the Fordney-McCumber Act, which is the introduction of MFN treatment. I have shown that the United States pursued a discriminatory trade policy since the implementation of the Fordney-McCumber Act. This increasingly turned out to be a problem when U.S. exporters became serious competitors in foreign markets. The discriminatory trade policy of the United States became a nuisance that was answered with discrimination and, often enough, retaliation. I have delivered evidence demonstrating that European discrimination strongly concerned U.S. exporters. The president and Congress tried to ameliorate the export conditions through penalty duties, bargaining provisions, and a double-tariff schedule since 1890. Each of these instruments witnessed some success, but, all in all, they failed to terminate discriminatory treatment of U.S. imports. I have shown that the president and the State Department sought MFN treatment precisely because of the previous failure to achieve equal treatment abroad.

These observations confirm my hypothesis on MFN treatment. The Congress and the government had tried to further the interests of exporters within the limits of protectionism and the no-injury commitment since 1890. Because of the failure of all other means, the United States finally granted MFN treatment after 1922. This choice supports my hypothesis that the promotion of exporter interests can only be achieved through non-discrimination. However, it could be seen that MFN treatment by the United States failed to stop foreign discrimination as well. The reason is that the United States still tried to square the circle by trying to accommodate the interests of exporters and import-competers at the same time. While MFN treatment was invented to further the interests of exporters, fixed tariff levels served to promote the interests of domestic producers. The fact that tariffs were non-negotiable prevented the State Department from bargaining down tariff levels. This meant that MFN treatment could not unfold any adverse distributional consequences for domestic producers in sequential bargaining. I have mentioned that this effect of sequential treaty-making was one major reason why the Payne-Aldrich Act of 1907 eliminated the reciprocity provision introduced by
the Dingley Act in 1897. In this view, the application of MFN provisions was fully compatible with protectionism. On the other hand, the European countries were engaged in sequential bargaining about tariff reductions. The United States would have benefited from the tariff cuts of its treaty partners through MFN treatment, i.e., reciprocal MFN treatment would have only been to the advantage of the United States. Because of this asymmetry in the long-run effects of MFN treatment, many European countries refused to conclude MFN agreements and the United States failed to promote its exports. The behavior of the European states conforms to my arguments on the distributional effects of MFN treatment and the need to combine MFN treatment with reciprocal tariff reductions.

With respect to the form of bargaining, it could be seen that the United States bargained bilaterally throughout the examined period. I identify two reasons for the choice of bilateral bargaining. There is compelling evidence that the State Department employed sequential bilateralism after 1922 as a bargaining tactic in order to achieve foreign equal treatment. The State Department hoped that the sequential conclusion of agreements would increase the incentive for other countries to negotiate a treaty on their own. In addition, sequential bilateralism was combined with the threat of penalty duties so as to create a non-agreement point that was worse than the status quo, i.e., the refusal to conclude a treaty. This bargaining strategy supports my conjecture that sequential bargaining may serve as an instrument to increase bargaining power.\textsuperscript{133} I argued further that it is uncertain how other countries respond to such attempts. All in all, one must say that the strategy of the State Department did not work out. Most of the important trading partners refused to conclude reciprocal MFN agreements with the United States and some of them even retaliated against U.S. imports. The State Department failed with its bargaining strategy and provoked the opposite of what they intended.

My independent variable of prime interest, which is the prevailing concerns about domestic distribution, could not be the reason for bilateral bargaining after the Fordney-McCumber Act. I have argued that bilateralism is selected to balance the political costs and benefits of trade cooperation that derive from changes in trade barriers. The Congress prohibited negotiations over tariff cuts, so there was no need to manage

\textsuperscript{133} My hypothesis was based on the presumption that countries negotiate tariff reductions. The difference in the tariff granted to treaty partners and non-treaty partners increases the incentive for the latter to sign an agreement. The Fordney-McCumber Act did not allow for downward-modifications of the domestic tariff, but the imposition of penalty tariffs performed an equivalent function because a penalty duty creates a tariff gap as well.
the domestic political implications of trade cooperation through bilateral bargaining. It could be seen, however, that the situation was different under the McKinley Act of 1890. The United States sought access to the Latin American countries that were less powerful than the big European countries the United States had to deal with in the 1920s. The threat of penalty duties on Latin American imports was credible and contributed to the conclusion of bilateral agreements. I have mentioned that duty-free Latin American imports were to the detriment of import-competers in the United States. These producers received transfer payments, which I hypothesized to be an equivalent to bilateral bargaining as a means for achieving a non-negative domestic distributional effect. Furthermore, the United States aimed to achieve concessions from Latin American countries on manufactured goods that were important for U.S. exporters. A similar conclusion can be reached for the Dingley Act of 1897 on the basis of which a couple of bilateral treaties were negotiated. In combination with the evidence that the support of economic actors mattered to political actors, one can conclude that if the U.S. administration was allowed to bargain about tariff levels, bilateral bargaining was used to achieve distributional goals. The necessity for bilateralism becomes particularly apparent when one recalls that the executive and Congress were committed to the non-injury principle, which prevented any comprehensive move toward concession-making.

A similar observation holds for the choice of the bargaining approach. The empirical analysis has shown that Congress most often mandated the item-by-item mode in its tariff acts. The authority to charge penalty duties, which aimed to set an incentive for international bargaining, was generally restricted to particular items. The Dingley Act additionally specified a list of items that could be used as bargaining chips for ordinary tariff bargaining. In those cases where the Congress did not limit the bargaining authority of the president, the former needed to ratify the agreements negotiated by the government. It could be seen that the Congress was very reluctant to approve reciprocity agreements. I have further shown that the Democrats and the Republicans strongly adhered to the no-injury pledge. Because of this commitment, the members of Congress and the government had no other choice than to select particular items to negotiate about at the international level. I conclude that the choice of an item-by-item approach by Congress had its roots in concerns about domestic distribution.

The behavior of the Congress and the government yields observations on the link between the size of the constituency and the pursuit of reciprocity. The Congress occasionally empowered the U.S. administration to bargain about reciprocity agree-
ments since 1890. This conferral of authority seems to indicate that the Congress was sympathetic with the idea of reciprocity. The Congress, however, frequently refused to ratify reciprocity agreements. The government, on the other hand, was more inclined toward the idea of reciprocal trade cooperation. I have presented evidence showing that the State Department was prepared to exchange access to the U.S. market for lower tariffs abroad in the 1920s and in the years following the Dingley Act of 1897. The evidence at hand suggests that the different attitude toward the reciprocity principle went back to the different size of the constituencies of the members of Congress and the government. The former had narrow constituency interests that, as I detailed in section 2.5, may not require the pursuit of reciprocity. The larger constituency of the government, on the other hand, almost inevitably mandates reciprocity in order to balance the distribu- tional implications of trade cooperation within the constituency.

The case of the Fordney-McCumber Act further allows me to assess whether partisan ideology matters for institutional choice. The empirical analysis has shown that the Republicans and the Democrats held different trade-policy preferences. The Democratic Party was somewhat more liberal and leaned more toward the interests of consumers than the Republicans. Moreover, the Democrats put more emphasis on the tariff as an instrument for revenue-generation than for protection of domestic producers. The major similarity between both parties was their close ties to economic actors, whereas the types of actors and sectors were different. The available evidence indicates that these differences between the Democratic and the Republican parties did not lead systematically to different institutional choices. Of course, the behavior of the parties varied over the period under examination, contingent on changing requests by economic actors within the own constituency. In 1907, for example, the Republicans implemented a dual-tier system in times of recession in order to shelter domestic producers. In better economic times, the Republicans were in favor of somewhat less restrictive forms of cooperation, e.g., penalty duties and bargaining provisions. Similar observations can be made for the Democratic Party. This variance in institutional choice can be attributed to variables that are not systematically related to “left” and “right” in terms of political

\[134\] Many members of Congress viewed the transfer of any authority related to tariff-setting to the government with suspicion because of the argument that the U.S. Constitution assigns the right of tariff-making to Congress. Constitutional reasons might explain the (non-)transfer of authority to the executive. However, constitutional concerns cannot explain why Congress itself failed to successfully implement the reciprocity principle.
ideology. I conclude that my hypothesis on the irrelevance of political ideology for institutional choice is corroborated.

In sum, I argue that the Fordney-McCumber and the events leading to it confirm my hypotheses on the choice of MFN treatment, the form of cooperation, and the bargaining approach. Neither of the competing explanations explains institutional choice better. I have mentioned at several points that concerns about tariff revenue drove tariff-setting, e.g., in the case of the Wilson-McGorman Act. But I haven’t found any evidence for the argument that revenue-seeking shaped the form of U.S. trade policy. A similar argument holds for the balance of trade as an essential component of the balance of payments. The overall balance of trade as well as bilateral balances fluctuated throughout the period under scrutiny. This was particularly the case during and after World War I. However, the available evidence indicates that the balance of trade bothered the Congress and the government mostly with respect to the domestic economic and political impact, which is covered by my model, and not by the balance-of-trade approach.

The United States was on the way of becoming a key player in international relations before World War I, and finally entered the international scene with the participation in this World War. I haven’t found any evidence of an effect of international politics or security concerns on institutional choice. The pursuit of reciprocity did not seem to be based in worries about relative or absolute gains, nor did the United States prefer bilateralism to multilateralism in order to avoid trade cooperation with non-allied countries. This finding lets me conclude that the international politics argument does not appear to explain this case. I conclude that my domestic politics model outperforms all competing approaches in explaining U.S. institutional choice in Fordney-McCumber case.

5.2. The Reciprocal Trade Agreements Act of 1934

From Fordney-McCumber to the Reciprocal Trade Agreements Act

In the years after its enactment, the Fordney-McCumber Act produced repercussions internationally as well as domestically. The development at the domestic level, which must be seen in combination with the international repercussions that I discussed in the previous section, substantially shaped the future trade policy of the United States.

The Fordney-McCumber bill particularly had an ambiguous effect on the agricultural sector. The upward revision of the agricultural duties somewhat increased the
demand for domestic goods, but also stimulated foreign retaliation. This made it increasingly difficult to sell the surplus production in foreign markets. Moreover, farmers suffered from high tariffs on manufactured goods they needed for their own production. Many agricultural producers lamented about the asymmetry of the Fordney-McCumber Act that protected the manufacturing sector more than agriculture and demanded more protection against agricultural imports (Kaplan 1996, 2-3).

The first initiative to remedy this situation was taken by Senator Charles McNary and Congressman Gilbert N. Haugen in early 1924. They drafted the McNary-Haugen Act that provided for higher tariffs and other support for agricultural producers. The act was submitted for enactment three times, but voted down in the House in 1924 and vetoed twice by the U.S. president, in 1927 and 1928 respectively (Kaplan 1996, 4-7). On the other hand, there were also attempts in the 1920s to push the U.S. trade policy toward liberalization. Cordell Hull, then a member of the House, identified U.S. protectionism as the source of the agricultural problems due to closed foreign markets. Hull proposed to cut tariffs on raw materials that were used for the production of agricultural machinery. This move would signal a liberal trade policy to the trading partners of the United States and reduce the production for domestic agricultural producers. Hull’s gambit for liberalization was accompanied by plans in the State Department to combine bilateral bargaining with MFN treatment in order to exchange access to foreign markets for liberalization at home. At that time, these ideas had no real chance of getting implemented because of opposition by President Calvin Coolidge and strong protectionist associations representing manufacturing producers (Eckes 1995, 93-94; Kaplan 1996, 8).

On the contrary, the so-called Farm Bloc, a group of Congressmen who had close links to the agricultural sector, decided as soon as early 1928 to revise tariffs upward. This decision finally culminated in the Smoot-Hawley Act. This decision had its roots in and was accompanied by massive lobbying of influential protectionist groups, e.g., the American Tariff League, which opposed any trade liberalization and welcomed the intended increase in agricultural tariffs. The move of the farm bloc dovetailed with the pledge of the Republican Herbert Hoover, who was campaigning for the presidency, to provide more protection for agricultural producers. The protectionist interests clashed with the request of exporters, e.g., the car manufacturers, to decrease duties instead of increasing them further. When Hoover became president in 1929, the way was paved for a new protectionist tariff act (Kaplan 1996, 15-16).
Nevertheless, the State Department and liberal-minded members of the Democratic Party tried to counter the trend toward protectionism in early 1929. Cordell Hull again tried to convince his party that lower tariffs were necessary. Hull suggested initiating negotiations with foreign countries about reciprocal concessions that would be generalized through MFN treatment. Besides his conviction that a liberal trade policy would yield economic and international political benefits, Hull believed that the Democrats had the unique chance to build an alliance with exporting industries. He was able to gather the support of parts of the Democratic Party, but he failed to fully convince it in order to gather sufficient support for a change in U.S. trade policy. A similar development occurred in the State Department. A group of young officials argued for bilateral bargaining and MFN treatment, but there was a stronger faction that opposed to liberalize trade at all (Eckes 1995, 94-96).

After these attempts to liberalize trade failed, the House Ways and Means Committee, chaired by Republican Willis C. Hawley, began to draft a new trade bill in January 1929 under the massive influence of lobbying interests (cf., Schattschneider 1935). The original goal was to make specific tariff changes for agricultural commodities, but the protectionist movement quickly gained momentum and more and more non-agricultural tariffs were raised. Moreover, the penalty duty provision of the Fordney-McCumber Act was eliminated from the Hawley draft. There was some opposition to broad tariff increases on the floor of the House, but the Republican majority finally approved the draft.

The opposition to a general upward revision of tariffs was stronger in the Senate. The Republican chairman of the Senate Finance Committee, Reed Smoot, orchestrated the protectionist Senators. They faced intense opposition from the Democrats and progressive Republicans alike. The political protest against the bill met with protests from consumer organizations, farmers, and economists from all over the country. Parts of the protesters considered any substantial tariff increase foolish, while others wanted to limit tariff increases to agricultural goods in order to diminish the asymmetry between agricultural and industrial tariffs created by the Fordney-McCumber Act. The Senate Finance Committee took up this complaint and reduced the tariffs of the Hawley draft on manufactured goods and raw materials, but the new duties remained very high in absolute terms. Furthermore, the Senate Committee attached an export debenture provision to the bill. The goal was to promote agricultural exports by granting tariff revenue as subsidies to domestic agricultural producers, meaning that agricultural goods should be
exported at dumping prices. In addition, the penalty provision was reintroduced into the bill, but the authority to impose penalty tariffs was transferred from the president to Congress. This change was justified with constitutional arguments because tariff-setting was considered a prerogative of Congress. After an extensive debate, the Senate passed the Smoot-Hawley draft and the bill was transferred to the Conference Committee.

Hawley and Smoot led the delegations of the House and the Senate respectively. The committee agreed on a compromise that did not substantially alter the tariff levels. The penalty provision as proposed by the Senate remained in the draft, against the explicit opposition of President Hoover. Members of Congress representing industrial constituencies supported the compromise. The members inclined toward agriculture were mostly against the bill because of the failure to close the gap between agricultural and industrial tariffs (Goldstein 1993, 24-26; Kaplan 1996, 22-29; Ratner 1972, 50-52; Schattschneider 1935).

The average duty created by the Smoot-Hawley Act was the highest in the history of the United States, and the bill provoked massive negative reactions from foreign countries. Dozens of trading partners had warned already during the debate in Congress that they would retaliate. After the Smoot-Hawley Act had become law, a large number of countries actually increased their tariffs for imports from the United States. The adverse reaction to the Smoot-Hawley bill must be seen in combination with the rising balance-of-payments problems of the European countries. As a matter of fact, the United States had agreed to the Young Plan in 1929, which aimed at an amelioration of the balance-of-payments crisis. However, the Young Plan did not prevent Congress from making it more difficult to export to the United States. Hoover declared a moratorium on all repayments in 1931, but the retaliatory spiral had started already and contributed further to the Great Depression, which began in 1929 (Clavin 2000; Kaplan 1996, 13, 33-36; Kindleberger 1986; Ratner 1972, 53-54).135

The Reciprocal Trade Agreements Act in Congress
The international response to the Smoot-Hawley Act heightened the attention for the interdependence between domestic and international trade-policy making among politicians and producers. The political sentiment in favor of modest and reciprocal liberalization strengthened after the enactment of the Smoot-Hawley Act, particularly in the

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135 Eckes (1995, chap. 4) delivers evidence that most of the literature on the Smoot-Hawley Act overstates the extent of retaliation against the United States. It is without doubt, however, that some retaliatory action was taken.
Democratic Party (Kaplan 1996, 43; Ratner 1972, 54-55). The Democrats tried to enact a trade bill in 1932 that, among other things, called for reciprocal bargaining. The draft discussed in the House Ways and Means Committee planned for reciprocal item-by-item negotiations in combination with MFN treatment. The House Committee dropped the reciprocity provision because it was deemed incompatible with MFN treatment. The Democrats in the Senate reintroduced the reciprocity clause into the bill and submitted it to Hoover for approval. The president vetoed it, also arguing that bilateral bargaining only works if it is not linked to MFN treatment. Discriminatory trade agreements, on other hand, had proved to invite retaliation in the past, so the reciprocity approach as such was claimed fallacious (Tasca 1938, 15-17).

The Democrat Franklin D. Roosevelt, who followed Hoover as president in 1932 and became one of the sponsors of the RTAA, made trade policy a central issue in his campaign. His team of economic advisers, one of which was Cordell Hull, held different opinions about the proper course of action in international commerce at that time. One group favored a flat, horizontal, and unilateral cut of domestic tariffs in order to send a signal of good will and to encourage lower tariffs abroad. Another group of advisers opposed this, since they were not convinced that unilateralism would promote foreign liberalization. Francis Sayre, who later became Assistant Secretary of State, explained that “we would not thereby gain immediate reduction of foreign trade barriers, nor would we thereby secure ourselves against discrimination on the part of foreign nations of our goods.” (cited after Goldstein 1993, 146). In the end, reciprocal liberalization was chosen as the form of cooperation on the basis of which trade should be liberalized (Goldstein 1993, 141-143).

As Roosevelt entered office, his administration, in which Cordell Hull held the position of Secretary of State, began to draft the RTAA. The substance of the draft closely followed the recommendations the U.S. Tariff Commission (1933) had made at the request of the Senate in 1933. The report of the commission pointed out that the government had to deal particularly with two issues: the reconciliation of bilateral bargaining with MFN treatment, and the involvement of Congress in trade-policy making that had proven to be detrimental to liberalization in the past.

In April, 1933, it seemed that Roosevelt would soon submit the RTAA and ask Congress for the transfer of tariff-negotiating authority. However, Roosevelt had delayed the submission of the RTAA draft to Congress over and over since the spring 1934, because the government correctly anticipated that the draft RTAA would face
stiff opposition. Roosevelt attached higher salience to other legislation that aimed to stimulate domestic recovery and was to be discussed by the Congress first. While the draft was pending for submission to Congress, the president made a couple of decisions that worked against the intent of trade liberalization. The Dollar was devalued so that exports became cheaper and imports to the United States became more expensive. The enactment of the Agricultural Adjustment Act and the National Industrial Recovery Act further contributed to protectionism in the short run because both acts authorized the government to shelter domestic producers from foreign competition, if necessary. In light of these events, the London Conference of 1933 was a complete failure. Cordell Hull lacked the authority to negotiate and the other participants at the meeting were disappointed about the recent actions taken by the United States (Goldstein 1993, 139-140; Kaplan 1996, 44; Tasca 1938, 21-27).

In early 1934, Roosevelt decided that the time was ripe for passing the draft RTAA over to Congress. The president emphasized the benefits of the RTAA and asked for its support in a message to Congress on March 2, 1934. Roosevelt pointed out that he sought “within carefully guarded limits to modify existing duties and import restrictions in such a way as will benefit American agriculture and industry.” He further claimed that a change of U.S. trade policy was necessary because “American exports cannot be permanently increased without a corresponding increase in imports”. He emphasized that the government needed to be authorized to enter into trade negotiations because this was customary practice of foreign countries that had proven to be effective. If the administration was prohibited from bargaining about reciprocal trade agreements, the United States “cannot adequately protect its trade against discriminations and against bargains injurious to its interests.” Roosevelt assured Congress that negotiations would take place “in the light of the latest information so as to give assurance that no sound and important American interest will be injuriously disturbed.” Roosevelt generally referred to “American interests”, but it was understood that he particularly meant domestic producers and labor and that he was committed to a no-injury trade policy (Eckes 1995, 142).

The main elements of the suggested bill provided for the repeal of the equalization-of-costs-provision, the introduction of MFN treatment, an upper limit on individual tariff cuts of 50 percent, a temporally unlimited transfer of the treaty-making authority

5. The Interwar Period

to the president, and a maximum treaty duration of three years, where treaties would acquire indefinite duration if they are not revoked after three years (Tasca 1938, 22-23). The conferral of bargaining authority on the president was not an entirely new element in U.S. trade policy. The innovative element of the RTAA was the extent of the transfer, which was unprecedented in the history of the United States. Roosevelt’s intention to obtain full bargaining authority was grounded in the insight that international trade cooperation had been difficult to achieve under the leadership of Congress over the previous four decades. Two outstanding reasons for these problems were the easy access of interest groups to Congressional decision-making and the increasing technical complexity of international trade (Goldstein 1993, 143-144).

The House Ways and Means Committee started to discuss the RTAA at the same day Roosevelt delivered his speech. The different opinions of the proponents and opponents of the RTAA clashed with each other during the hearings and discussions in the House Ways and Means Committee. Followers of Roosevelt maintained that liberalization through executive action was indispensable in order to improve external trade and the state of the domestic economy. The opposition to the draft contended that the dim domestic economic conditions required a protective tariff and declared a transfer of authority to the government unconstitutional. Moreover, it was complained that the bill did not provide for public information and hearings of domestic firms that were affected by a particular trade agreement. While the trade act did not explicitly mention bilateralism as the form of trade cooperation, it was further pointed out that bilateral agreements were in conflict with the principle of non-discrimination. The opponents of the RTAA believed that the reciprocal exchange of concessions in bilateral agreements could not be combined with the generalization of concessions to other countries.

The majority of the Ways and Means Committee accommodated this criticism of the minority group by clarifying that U.S. trade cooperation would be based on the principal supplier rule. It was stipulated that “The reciprocity agreements will deal primarily with the articles which the other parties to them are respectively the principal supplier to this country.” (cited after Tasca 1938, 136). Furthermore, the U.S. Tariff Commission had recommended diversifying the tariff schedule in order to limit the number of countries that would benefit from a specific concession made by the United States (Tasca 1938, 136). Besides, the committee reintroduced the equalization-of-costs rule that had not been part of the government draft. The House further added to the bill the provision that the RTAA would expire automatically three years after enactment. Taken
together, the members of the House modified two of the core elements of the original draft (Kaplan 1996, 45-46; Tasca 1938, 32-35).

In its debate about the bill, the Senate Finance Committee emphasized the need to apply the principal supplier rule in international trade bargaining (Tasca 1938, 136) and made a couple of changes to the draft, two of which are particularly important to mention here. First, it modified the House provision that the RTAA would terminate three after entry into force. The Senate Committee downsized this arrangement by stipulating that the authority to enter into trade treaties would expire after three years. This change made an important difference because the House stipulation implied that the agreements signed by the president on the ground of the RTAA would have expired, too. A majority in the Finance Committee deemed this consequence undesirable and changed the draft accordingly.

Second, the Senate Committee draft required the president to give public notice of the plan to negotiate an agreement in due time, a provision the minority in the House Ways and Means Committee had failed to include in the House draft. In addition, the Senate Finance Committee provided private actors and government departments with the opportunity to issue their opinion on intended trade treaties. The introduction of this clause can be traced back to the affinity of the Senate (and the House) for public hearings, and the strong pressure of interest groups to have the chance to present their views before the negotiations were launched (Tasca 1938, 36-37). This provision was introduced against the explicit will of the administration, which strongly opposed the inclusion of such a clause. In the opinion of the government, concerned actors already enjoyed sufficient opportunities to make their interests heard (Tasca 1938, 66-67). The Senate approved the act with few additional changes. The House and President Roosevelt approved the revised Senate draft, and the RTAA became law in June 1934 (Eckes 1995, 142; Tasca 1938, 37-38).

From a legal perspective, the RTAA was an amendment to the Smoot-Hawley Act (Ratner 1972, 56), which in turn was an amendment to the Fordney-McCumber Act. As a consequence of that, the new regulations of the RTAA were added to the provisions of its predecessors. This meant that the insistence on foreign non-discrimination and the penalty duty provision remained elements of U.S. trade legislation after 1934. The imposition of penalty duties, however, was not considered any more seriously after 1934 than it had been after 1922 (Tasca 1938, 161). On the other hand, the Roosevelt administration considered the non-discriminatory treatment of U.S. exports a central
pillar of its trade policy. The adverse treatment of U.S. exports would run counter to the
goal of export promotion, which was in turn closely linked to the liberalization of the
domestic market. Therefore, equal treatment abroad was a precondition for liberalization at home (Tasca 1938, 40-44). The above-mentioned Fordney-McCumber provision that targeted to foreign tariffs higher than the U.S. tariffs was eliminated from the Reciprocal Trade Agreements Act. The repeal was a response to the problems it had created in the past because of the protests of the trading partners of the United States (Tasca 1938, 124).

**Administering the Reciprocal Trade Agreements Act**

Roosevelt and his administration were determined to conclude trade agreements and liberalize trade, but there was a considerable degree of uncertainty about the form of future trade cooperation during the early stages of the trade program. The RTAA did not unequivocally require a particular form of cooperation or bargaining approach, nor had Congress prohibited applying any form. Consequently, it was up to the government to decide about the appropriate institutional design of international trade cooperation. It is true that the wording of the RTAA suggested that the United States was committed to the MFN principle. However, in the first year after the enactment of the RTAA, it was far from clear whether the United States would indeed adhere to non-discrimination.137 (Eckes 1995, 145-146).

The major line of division about the future shape of U.S. trade policy was between Secretary of State Cordell Hull and George Peek, who was appointed Special Adviser on Foreign Trade in March 1934. Hull and Peek were the leading figures of two blocs within the administration that held contradictory opinions on the design of U.S. commercial policy. Hull had a long tradition of pursuing liberal trade because of his belief that domestic prosperity required international trade and that protectionism bred discord and war. He supported the tariff cuts achieved through the Underwood-Simmons Act of 1913 and vigorously criticized the Fordney-McCumber Act and the Smoot-Hawley Act for their adverse effects on the balance of payments of foreign countries. Hull had already proposed liberalizing trade through bargaining and MFN treat-

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137 As a matter of fact, the interpretation of trade legislation and trade agreements has a long history in U.S. trade-policy making. In the nineteenth century, for example, the United States always interpreted the MFN provisions of its trade agreements as providing for conditional treatment, which was effectively similar to discrimination. The conditional interpretation was even made in cases where the MFN clause clearly suggested unconditional treatment (cf., Hornbeck 1910; Viner 1951a, 1951b; Williams 1929).
ment in 1929, and he argued for making the same combination the basis for U.S. trade cooperation in 1934 (Kaplan 1996, 43-44; Tasca 1938, 82-85).

George Peek, on the other hand, kept close ties with domestic agricultural producers. He clearly leaned toward protectionism and advocated bilateral bargaining. Moreover, he argued for the abandonment of MFN treatment because he considered it “unilateral economic disarmament” that invites free-riding by the American trading partners (Kaplan 1996, 47). In Peek’s own words: “We should check competitive agricultural and industrial imports by tariffs, quotas, embargoes or otherwise and give the American farmer and industrial worker the full benefit of the domestic market, so that we can remain more nearly on a self-sustaining basis. [...] We should abandon the unconditional most-favored-nation policy and regain our bargaining power. [...] We should trade selectively both as to imports and exports, dealing country by country, and if necessary, as in the case of cotton, commodity by commodity. We should inaugurate a simplified system of inter-nation bookkeeping so that we can know at all times where we stand in our commercial and financial relations with any given country. (Tasca 1938, 89-90).

The State Department was in charge of trade policy in the Roosevelt administration and expected to be in charge of the RTAA once it had passed Congress. In March 1934, however, Roosevelt assigned Peek as Special Adviser on Foreign Trade and assigned to him an organizational body that paralleled the Trade Division responsible for international commerce in the State Department. Peek’s position and the new institution were officially part of the National Industrial Recovery Program. The redundancy of institutions that were supposed to deal with the conduct of international trade relations made it necessary for Roosevelt to clarify that the work of the Trade Division was not in any way affected by the new organization. For the time being, however, Roosevelt’s clarification left unclear which of the organizations held superior authority for the implementation of the RTAA. The undecided relationship between Hull and Peek hindered the progress of the trade agreements program for almost a full year.138 Roosevelt finally supported his Secretary of State Cordell Hull and accepted the resignation of Peek, who had continuously and publicly criticized Hull’s position (Eckes 1995, 145-146; Kaplan 1996, 47-48; Tasca 1938, 82-92). Hull’s victory meant that MFN treatment became an

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138 The trade-related provisions of the National Industrial Recovery Act (NIRA) were another reason for the slow implementation of the RTAA and the delayed initiation of international negotiations. In a nutshell, the NIRA was protectionist in intent and thus stood in conflict with the liberal spirit of the RTAA (Tasca 1938, 92-96).
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integral element of U.S. trade policy. More precisely, the United States generalized all concessions that were exchanged through a trade agreement with other countries, independently of whether a state had signed an agreement with the United States before. A country qualified for MFN treatment by avoiding substantial discrimination against U.S. imports by whatever means. It was left open how the United States defined “substantial discrimination”, meaning that it retained some discretion in delineating the scope of MFN treatment (Tasca 1938, 147-152).

The State Department acquired the sole responsibility for administering the RTAA after the dispute between Hull and Peek had been settled. The implementation of the RTAA required establishing an institutional structure that supported the negotiation of trade agreements. The need for public notification and hearings requested by Congress further increased the demand in relation to the procedures to be implemented. As I indicated before, the trade agreements program was administered by the Division of Trade Agreements within the State Department, generally known as the Trade Division. The Planning Committee supervised the functioning of the whole program and coordinated the activities of its various bodies, when necessary. An assistant secretary of state chaired the Executive Committee on Commercial Policy, which was the top committee in the new administrative structure. High-ranking officials of all interested departments coordinated the course of trade policy in this committee. In practice, the most important body was the Interdepartmental Committee on Foreign Trade Agreements, which worked in secrecy in order to shelter its members from private and political lobbying. Lower-level officials from various departments performed the everyday operations of the program in the Interdepartmental Committee. The Committee on Foreign Trade Agreements and its subcommittees collected and provided information that was necessary for the preparation and conduct of trade negotiations. In particular, the Country Committees had to compile the list of concessions that were offered and requested. Its work was complemented by Commodity Committees and Special Committees that particularly dealt with concessions on specific commodities, e.g., dairy products, or problems that deserved special attention. The Committee on Reciprocity Information, informally called the public relations committee, served as the channel through which any individual, company, and organization could get in touch with any department involved in commercial matters and submit information on issues related to future trade negotiations (Eckes 1995, 142-144; Tasca 1938, 48-55).
Having detailed the administrative structure of the trade program, I can now explain how the committees worked together in practice. The Planning Committee made the decision about whether a beneficial deal was feasible with a particular country. The Committee on Foreign Trade Agreements launched informal negotiations with the country in question when it supported the Planning Committee’s decision. The most important aspect to clarify in these preliminary negotiations was whether a potential trade agreement would conform with the basic requirements of U.S. trade legislation, e.g., the non-discriminatory treatment of U.S. imports. The historical record indicates that a large number of negotiations never made it past this early stage.

A Country Committee was established when the U.S. negotiators concluded after they preliminary talks that a treaty was possible. The committee then collected information on the foreign country and its trade relations with the United States. With respect to imports, one type of information to be gathered covered the recent development of imports from this country. This data was acquired in order to assess the effects of a treaty on the American and foreign balance of payments. In addition, information was collected on the probable effects of the treaty on domestic economic actors. The Country Committee had to assess the benefits of liberalization for consumers and the injuries falling on domestic producers facing increased foreign competition. Furthermore, it determined the benefits other countries would receive through MFN treatment by the United States. The Country Committee acquired similar information on exports, i.e., it asked for the type and extent of foreign trade barriers and the effects of foreign MFN treatment in combination with the conclusion of future bilateral agreements signed by the treaty partner (Tasca 1938, 56-60).

The president notified the public of the plan to negotiate a trade agreement parallel to the work of the Country Committee. Everybody who wanted to become better informed about the intended treaty had the opportunity to receive basic statistics from official sources. Moreover, U.S. Congress and various interest groups repeatedly demanded the Trade Division to submit a draft list of concessions at this stage of the process. The State Department always opposed this on the grounds that it was simply not possible because the testimonies were part of the drafting process. However, after several years, the State Department gave in to the pressure from Congress and interest groups and submitted a preliminary list of concessions before the hearings. The public announcement was followed by the creation of a Committee for Reciprocity Information. This Committee invited written and oral hearings by all parties that wanted to pre-
sent their views on the upcoming negotiations. The protocol covering the conduct of hearings on a single trade agreement was quite sophisticated and allowed for extensive testimonies. The empirical record shows that economic actors regularly seized the opportunity to present their views before the Committee for Reciprocity. Moreover, the committee collected the opinions of governmental departments that felt concerned by the agreement.

Finally, all the gathered information was submitted to the Country Committee (Kaplan 1996, 47; Tasca 1938, 61-65). The Country Committee submitted a report to the Interdepartmental Trade Agreements Committee that created a list of offers and requests. The list was inspected by the secretary of state and the president and would serve, if approved, as the basis for trade negotiations. During the bargain, the negotiating team constantly reported the state of the process to the Country Committee (and Commodity and Special Committees if necessary), which in turn helped the negotiators adjust their position to unforeseen developments. When the involved countries could agree on the terms of an agreement, the president would have the exclusive right to put the treaty into effect (Tasca 1938, 68-69).

**International Negotiations after 1934**

The Trade Division within the State Department played an essential role in the international trade negotiations in which the United States was involved. Many State Department officials working in the trade program believed in classic trade theory. They wanted to realize the welfare gains of liberalization and were prepared to increase competitive pressure on inefficient domestic producers that had been sheltered from foreign competition in the past. In the words of a State Department official, “*a reciprocity program which hurt no one could not go very far in improving the general economic welfare.*” (cited after Eckes 1995, 145).

The adherence to liberal economic thinking implied that the State Department officials were not as committed to the no-injury pledge as President Roosevelt and the greater part of Congress were. This became apparent in the negotiations with Belgium that began in late 1934 and which represented the first attempt to conclude an agreement with a major trading partner. The negotiators of the United States made generous offers and did not insist on equivalent concessions from Belgium. Moreover, the State Department officials disregarded the principal supplier rule when making tariff cuts on items Belgium was not the principal supplier of. The U.S. negotiators even approved
Belgium’s request to maintain quotas and to depreciate the currency, nearly nullifying the concessions the United States had received from Belgium in the agreement. Domestic producers from the United States heavily protested against the deal once the terms of the intended agreement became public. In the face of domestic protest, the president took action and ordered the State Department to revoke some concessions in order to meet the no-injury commitment (Eckes 1995, 144-145).

Another example of the prevailing attitude of the State Department officials and their conflicts with domestic producers is the 1936 trade agreement between Switzerland and the United States. After the treaty had been concluded, Switzerland adopted a series of import-inhibiting and export-promoting measures, e.g., the depreciation of its currency. Such actions devalued the Swiss concessions granted to the United States and increased Swiss imports more than expected in 1936. Domestic producers and exporters complained about the Swiss behavior and urged the State Department officials to renegotiate the treaty. The State Department refused to do so because it valued the political relationship with Switzerland and the economic effects of the treaty more than the interests of U.S. producers (Eckes 1995, 147-148). Such domestic conflicts between the State Department, Congress and domestic economic actors were not the exception, but the rule in the negotiations conducted on the basis of the RTAA (Kaplan 1996, 48-49; Tasca 1938, 75).139

The bargaining behavior of the United States after 1934 displays several regularities. It made concessions on very specific items in order to limit the number of countries that would benefit from the concession through MFN treatment. In a similar vein, the United States diversified its tariff schedule after the enactment of the RTAA so as to limit the distributional effect of MFN treatment in sequential negotiations. Except for the negotiations with Belgium, State Department officials generally adhered to the principal supplier rule. As a consequence of that, the most important importers to the United States had little chance to free-ride on U.S. MFN treatment. Furthermore, it is interesting to note that the United States included withdrawal clauses in its trade agreements. These provisions allowed the United States to revoke a concession or to impose quotas if MFN treatment caused “an unduly large increase in importation” in the United States (Tasca 1938, 138-146).

139 A discussion of the substance of many agreements in terms of tariff levels, etc. is delivered by Tasca (1938, chap. 8).
On one occasion, the United States decided to cluster the set of bilateral negotiations involving the Latin and Central American countries that were eager to conclude a trade agreement. Each of the bargaining partners was too small to acquire the status of a principal supplier, but altogether the Latin and Central American states were able to offer meaningful concessions. For the United States, on the other hand, clustering was a means to avoid free-riding that would have occurred if it had negotiated sequential bilateral agreements. The empirical record indicates that clustering proves successful, since the United States was able to conclude bilateral treaties with its smaller trading partners (Tasca 1938, 145).

Since Congress stipulated that the RTAA would last three years at maximum, it was scheduled for renewal by the Congress in 1937. The debate in Congress showed that the RTAA was far from receiving broad support as an instrument of export promotion. As was the case in 1934, Roosevelt aimed to achieve an indefinite duration of the renewed RTAA, but Congress again limited the duration of the trade act to three years. Cordell Hull argued during the hearings that the RTAA had proven successful since 1934 and that its abandonment would cause a return to commercial warfare. Despite the opposition against the RTAA in parts of Congress, it passed the House with relatively few problems. The Senate was more critical of an extension. The Republicans lamented that the United States had given more concessions than it received. This criticism particularly focused on the effects of MFN treatment and concession-making by State Department officials who did not attach the highest priority to domestic interest groups and the no-injury commitment. The criticism of the Republican senators was mirrored by similar complaints from domestic producers that had experienced rising imports throughout the previous three years. In the end, however, the Senate extended the RTAA for three more years.

**Conclusion**

The RTAA made MFN treatment and bilateral item-by-item bargaining core elements of U.S. trade policy. I have hypothesized that concerns about distribution are the reason for bilateral negotiations and the application of the item-by-item approach. Moreover, I expected that the adherence to MFN treatment was rooted in the incompatibility of liberal trade, which was pursued by the United States after 1934, with discriminatory treatment of imports. The international commercial negotiations held on the basis of the RTAA provided further observations to test my hypothesis on the problems of sequen-
5. The Interwar Period

tial distributive bargaining under MFN treatment. I think that my empirical analysis of
the process leading to the RTAA, its design and the later international trade negotiations
all provide empirical evidence in favor of my hypotheses on institutional choice.

I have presented evidence showing that concerns about domestic distribution
played an essential role in the specification of the terms of the RTAA in the political
process. President Roosevelt was inclined to liberalize U.S. trade policy in order to meet
the interests of exporters, but was on the other hand committed to a no-injury pledge for
domestic producers. Roosevelt’s worries about the domestic impact of the new trade
program were in line with the strong distributional concerns of large parts of Congress. I
have shown that Congress amended the government’s draft of the RTAA so as prevent
the Roosevelt administration from acting against distributional interests of Congress-
men. Most importantly, Congress limited the duration of the RTAA to three years and
provided for extensive opportunities for private economic actors to make their interests
heard during the preparations of international trade negotiations. This publicity stipula-
tion was a partial substitute for the lack of ability to influence trade-policy making in
U.S. Congress, since the latter transferred the related authority to the president. The im-
portance of domestic distributional concerns was even more apparent in the implementa-
tion of the RTAA and the actual international trade negotiations. The historical record
shows that economic actors used the publicity provision extensively in order to shape
the bargaining behavior of the United States in their favor. There was also a latent con-
flict between liberal minded officials in the State Department who administered the
trade program and import-competers and exporters who complained about harmful ac-
tion of trading partners. In light of this evidence, it is beyond doubt that concerns about
domestic distribution substantially shaped the substance and implementation of the
RTAA.

My empirical analysis corroborates my conjectures about the effects of concerns
about distribution on institutional choice. I have shown that the protocol guiding the
preparation of trade negotiations provided for careful consideration of the concessions
to offer and request in international bargaining. The expected costs and benefits of con-
cessions for domestic producers and exporters were one major factor that was consid-
ered in the course of drafting the list of concessions. The second factor that figured
prominently was the implications for the domestic and foreign balance of payments.
From this perspective, the choice of an item-by-item approach allowing the U.S. to fine-
tune concession-making was nothing but straightforward.
A similar conclusion holds for the choice of bilateral bargaining, since this provided U.S. negotiators with the opportunity to offer tailor-made concessions. The choice of bilateral bargaining seemed undisputed since the drafting of RTAA by the government in 1933. Members of the administration and members of Congress occasionally referred to bilateralism as the form of negotiation, although the text of the RTAA did not explicitly rule out multilateral bargaining. An exception to this rule was the planned negotiations on tariff reduction at the London Economic Conference in 1933. I mentioned earlier that the U.S. government intended to convince all participating countries to cut their duties across the board by ten percent. The RTAA was not submitted to Congress in time for a multilateral formula approach to be feasible at the London meeting. It appears that the multilateral implementation of a linear cut was considered as an emergency measure because protectionism was prevalent around the globe at that time. Bilateralism, on the other hand, seemed to be the bargaining mode for less critical times and was selected as the form of bargaining after 1934.

The dispute between Cordell Hull and George Peek over the application of MFN provisions also supports my related hypotheses. I have mentioned that Hull recognized in the early 1930s that the Democratic Party had the unique chance to pull the exporting industries on their side because the Republicans had an almost exclusive focus on domestic producers. Moreover, I have found evidence showing that Hull was deeply convinced that discriminatory trade would have adverse international political effects. This finding suggests that Cordell Hull was addicted to the idea of non-discrimination as an instrument of promoting peaceful international relations, an attitude that can be at least partially attributed to American experiences with protectionism and discriminatory trade before 1934. Hull had learned that liberalization was very difficult to achieve under trade discrimination that creates dissatisfaction abroad and among domestic exporters, which have to suffer most from foreign retaliation. The behavior of Peek, who opposed MFN treatment, lends further empirical support to my hypothesis. It could be observed that Peek argued for discriminatory treatment of imports in order to shelter domestic producers from harmful foreign competition. Furthermore, Peek deemed the tight control of imports necessary to prevent any disturbances in the domestic balance of payments. These two observations corroborate my domestic politics hypothesis and the balance-of-payments approach, which predicts the absence of MFN treatment under concerns about the balance of payments.
The empirical examination of trade negotiations conducted on the basis of the RTAA shows that the United States experienced the internalized enforcement problems I expected to see in sequential bargaining involving MFN treatment. This problem was one reason President Hoover vetoed the introduction of bilateral bargaining and MFN treatment in 1932. The Tariff Commission identified this enforcement problem in its report of 1933 as an issue to be addressed by the RTAA, and there was widespread concern in Congress that bilateral sequential bargaining would be incompatible with the non-discriminatory treatment of imports. The anticipated problems of MFN treatment in sequential negotiations explain why Congress decided to make the principal supplier rule an integral element of the future trade program. The available evidence on the international negotiations conducted after 1934 shows that the warnings were warranted, since the United States negotiators were confronted with the internalized enforcement problem. In addition to the principal supplier rule, the United States diversified its tariff schedule as a means to limit the distributional implications of MFN treatment. A more complex tariff schedule was a viable solution to the enforcement problem, but, at the same time, undermined its adherence to the principle of non-discrimination. On one occasion, the United States clustered a couple of bilateral negotiations in order to diminish the internalized enforcement problem. This observation confirms my hypothesis that simultaneous negotiations are an effective counter to the enforcement problem in arrangements involving a small number of countries. In sum, I find my conjectures on sequential bargaining under MFN treatment fully confirmed.

The case of the RTAA allows me to further assess my assumptions on the effects of the size of the constituency and partisan ideology. Regarding the former, my empirical analysis strongly suggests that the pursuit of reciprocity becomes easier with a growing constituency. My discussion of the process leading from the McKinley Act of 1890 to the RTAA showed that the close involvement of Congress in trade-policy making was a serious obstacle to reciprocal cooperation. The Tariff Commission also identified this issue as one of the major problems for the government to resolve in order to establish a trade program. Congress was taken out of the everyday operation of the trade agreements program by transferring the trade-policy making authority to the government. The case of the RTAA shows that the president’s larger constituency allowed him to accommodate conflicting domestic interests much better than the members of Congress, with their narrow constituency interests, ever could. This finding emphasizes my conjecture that the pursuit of reciprocity and an export-oriented trade policy can be
more easily implemented if the political actors in charge appeal to a broad constituency. The way the State Department administered the trade agreements program further supports this hypothesis. As I have demonstrated, State Department officials attached much salience to foreign policy goals and liberal economic ideas. This observation is not surprising, because State Department officials are very unlikely to be concerned about the implications of their action on domestic economic producers. The fact that the absence of distributional concerns prompted a different behavior than that predicted by my model underscores my conjecture on the link between the constituency and concerns about distribution on institutional choice.

Finally, the case of the RTAA indicates that partisan ideology is not systematically related to institutional choice. If this was the case, one would observe a systematic difference in the institutional preferences of Democrats and Republicans. Such a difference cannot be observed in the case of RTAA, confirming the finding that I made in my empirical analysis of the Fordney-McCumber Act. The institutional preferences of political actors strongly depend on their trade-policy preferences, which in turn were to a large degree contingent on the economic actors represented in their constituency. As I have occasionally mentioned throughout the empirical analysis, the trade-policy preferences of different members of Congress often crossed partisan lines. The Farm Bloc, for example, was a bi-partisan group within Congress whose prime goal was to foster the interests of agricultural producers. In a similar vein, there was a tendency to cooperate across partisan lines to promote exports. This finding lets me conclude that partisan ideology is not systematically related to institutional choice.

I have indicated above that the balance-of-payments account and the ideas approach help explain the case of the RTAA. Hull’s adherence to the idea of non-discrimination explains the application of MFN treatment to some degree. Furthermore, the potential effects of trade agreements on the balance of payments played an important role in the compilation of U.S. lists of concessions. This finding confirms the hypothesis that concerns about the balance of payments prompt the choice of bilateral bargaining. In sum, however, my empirical analysis strongly indicates that my domestic politics model is the best explanation for the case of the RTAA.
5.3. Institutional Choice in the Interwar Period: Conclusion
The Fordney-McCumber Act of 1922 and the RTAA of 1934 represent two of the most important events in the realm of international trade in the interwar period. The Fordney-McCumber bill is famous for its high tariffs and the introduction of MFN treatment. Goldstein (1993) declares this trade act a “strange piece of trade legislation” because of the seemingly puzzling combination of protective duties and the non-discrimination principle. The RTAA, on the other hand, is considered the cornerstone of the GATT and the beginning of an era of liberal trade after World War II. The key features of the RTAA are the transfer of the trade-policy making authority from Congress to the president and the adherence to bargaining under MFN treatment.

My empirical analysis of these two trade acts has shown that the driving forces behind them are much more similar than other discussions in the literature may lead one to expect. In both cases, concerns about domestic distribution best explain the choice of bilateral bargaining and the item-by-item approach. Moreover, the granting of MFN treatment after 1922 and 1934 was based on the desire to promote exports. The important difference between the Fordney-McCumber Act and the RTAA lies in the insight that the interests of domestic producers and exporters can hardly be reconciled in a single trade policy, regardless of the form of trade cooperation. The refusal to bargain about tariff levels until the implementation of the RTAA sheltered domestic producers in the United States against harmful foreign competition, but inhibited better market access abroad. The way was open for export promotion once it had been accepted that there is a trade-off between imports and exports that requires bargaining about the mutual enhancement of market access. The conferral of the trade-policy making authority to Congress was nothing but consequential in this view, since a large collective body like Congress can hardly administer a trade program involving reciprocal bargaining. Besides the fact that it would have been impossible to handle in practical terms, Congress as a collective body had proven incapable of implementing the idea of reciprocal bargaining since 1890.

Roosevelt’s commitment to the no-injury pledge that was emphasized in his address to Congress shows that he, as well as many members of Congress, believed after 1934 that exports could be increased without exposing domestic producers to harmful import-competition. It was expected that the trade-off between imports and exports could be resolved without trading the interests of import-competers and exporters. It quickly turned out in the first negotiations held under the auspices of the RTAA that this was an
illusion. As the next chapter will show, this trade-off between the interests of exporters and import-competitors was a constant point of friction in U.S. trade-policy making and contributed much to the institutional choice of the United States after World War II.
6. The World Trade Regime after World War II

This chapter involves the discussion of three cases of institutional choice of the United States. The first case is the negotiations between the United States and Great Britain on the form of cooperation in the GATT. These two countries alone did not formally decide about the design of the GATT. De facto, however, the bargaining outcome was not substantially altered by other countries in the later multilateral negotiations on the GATT (Kock 1969). I chose this case for analysis because the two countries agreed to replace sequential MFN bilateralism, which was the default form of cooperation until the foundation of the GATT, with simultaneous MFN bilateralism.

The empirical analysis will show that Great Britain’s bargaining position was driven by concerns about the negative balance of payments that it experienced in the mid-1940s. Great Britain pushed for multilateral negotiations, since it expected that this would diminish the balance-of-payments problem fastest. In addition, Great Britain sought a formula approach. These findings lend support to the balance-of-payments approach. The U.S. State Department was prepared to substitute MFN bilateralism for multilateralism and item-by-item bargaining for a formula approach in order to keep good political relations with Great Britain. The U.S. Congress, however, was unwilling to support these institutional changes. There was widespread concern among the members of Congress that multilateralism in combination with a formula approach would make it impossible to pursue their constituency’s interests. Because of the resistance of Congress, the U.S. government decided to keep the design of trade cooperation invented after the Reciprocal Trade Agreements Act. The only institutional change the United States and Great Britain could agree on was the conduct of simultaneous bargaining instead of sequential negotiations. It can be observed that both countries favored clustered bargaining as a response to the internalized enforcement problem that occurs under sequential negotiations under MFN treatment. Furthermore, sequential bargaining was embedded in a set of institutional devices that also aimed at diminishing the externalized enforcement problem. In sum, the empirical evidence partially corroborates and contradicts my arguments on clustered bargaining.

The second case that I examine in this chapter is the Kennedy Round. The Kennedy Round marks the introduction of multilateral bargaining on tariffs on manufactured goods. In essence, a mixed form of cooperation was applied, which combined pure multilateralism with MFN bilateralism. Therefore, the Kennedy Round gives me the
opportunity to discern the determinants of bilateral and multilateral bargaining. In addition, the item-by-item approach was replaced by a mixed bargaining approach, integrating the traditional item-by-item mode with a formula approach. The negotiations on the type of formula to be applied were marked by a conflict about whether a linear approach or a harmonizing approach should be taken. All in all, the negotiations on the formula provide evidence on the choice of all three bargaining approaches that I distinguished in section 2.1.

The empirical analysis will show that the U.S. executive pushed for multilateral bargaining, since the transaction costs of bilateral item-by-item bargaining turned out to be too high in the Dillon Round. For the same reason, the United States sought a formula approach instead of the traditional item-by-item mode. These observations confirm my hypotheses on the effects of prevailing concerns about enforcement and transaction costs on institutional choice. Given that the number of Contracting Parties had considerably increased from 1947 to 1963, this finding further suggests that clustered bilateral negotiations are only a viable solution for settings involving a medium number of countries at most. Moreover, I will show that the U.S. government introduced domestic adjustment assistance alongside the turn to multilateral bargaining and a formula approach. It can be seen that the invention of adjustment assistance was politically motivated in order to compensate domestic producers for the increase in import-competition that would result from the institutional change in trade bargaining. The hypothesis on the incompatibility of multilateral bargaining and the achievement of distributional goals receives additional support from the observation that bilateral item-by-item bargaining played a more important role in the second half of the Kennedy Round than originally intended. In sum, I conclude that the case of the Kennedy Round conforms to the expectations derived from my model.

The third case of the period after World War II covers the negotiations on the Government Procurement Agreement (GPA) at the Uruguay Round. The negotiations yield empirical observations on all four forms of cooperation. The rules regulating government procurement were bargained multilaterally. Participation in the negotiations was voluntary and many countries did not become a party to the GPA. Subscribers to the GPA, among them the United States, withheld MFN treatment, so one finds pure multilateralism and MFN multilateralism with respect to rule-application. In addition, MFN treatment was not mandatory for concessions that were bilaterally exchanged between parties to the GPA. As a matter of fact, MFN treatment was mostly withheld by
the United States. One thus observes a mix of pure bilateralism and MFN bilateralism in concession-making that allows me to test the corresponding hypotheses.

It will be shown that the negotiations were marked by a strong sense of protectionism, notwithstanding that liberalization of public procurement was the goal. The U.S. Congress perceived the liberalization of government procurement as a substantial threat to the pursuit of their domestic distributional goals. I will demonstrate that protectionist concerns were the main reason why the United States discriminated between parties and non-parties to the GPA in the application of the rules regulating government procurement. Moreover, one can observe that bargaining relied on a strong insistence on reciprocity, which is the reason why MFN treatment was generally not applied to the concessions exchanged in bilateral bargains. There was even little scope to exchange access to the procurement markets across different sectors. Sectoral reciprocity and the absence of MFN treatment had its roots in strong concerns about reciprocity and the domestic distributional implications of liberalized government procurement. In the light of this evidence, I conclude that the case of government procurement lends empirical support to my model.

6.1. The Negotiations on the GATT

The First Steps Toward a Post-War Trade Regime

American plans for a world trade regime can be traced back to the 1930s and were driven by three major lessons. First, the United States failed to make timely plans for a world economic order after World War I. Second, the United States refused to join the League of Nations after World War I and to get more actively engaged in international politics. Third, progress was hampered by the problematic political developments in Europe of the interwar period, which were to a large degree attributed to the failure to manage the economic problems of that time effectively (Gardner 1969, 2-3). In particular Cordell Hull, U.S. Secretary of State, saw a close link between economic cooperation and peace. As he put it, “[…] if we could get a freer flow of trade – freer in the sense of fewer discriminations and obstructions – so that one country would not be deadly jealous of another and living standards of all countries might rise, thereby eliminating the economic dissatisfaction that breeds war, we might have a chance of lasting peace” (Hull 1948, 81). Hull saw a multilateral trade regime as the best way to achieve this goal. As is indicated by the quote, the prime objective attached to multilateralism was non-discrimination between foreign countries. It was almost undisputed in
the U.S. administration in the early 1940s that multilateralism should be the form of the new trade regime (Gardner 1969, 15).

The major goal the U.S. administration linked to a multilateral commercial regime was the liberalization of trade. The State Department was still in charge of foreign economic policy during the war and conceived of trade liberalization as a means to achieve economic and foreign policy goals. The State Department aimed to promote imports in order to mitigate the dollar shortages of important trading partners. In addition, a surge in imports was considered necessary to foster economic recovery in Europe and allied countries immediately after World War II (Eckes 1995, 158-159). Import-promotion was also sought by the State Department in order to create demand for exports abroad and to avoid discrimination against the United States (Eckes 1995, 149). Moreover, the idea of non-discrimination in international trade still figured high for the State Department officials in charge of foreign economic policy. The general thrust of trade-policy making thus has not changed compared to the interwar period (cf., chapter 5). It was against this background that the United States started its negotiations with the United Kingdom on multilateral trade cooperation and liberalization. The negotiations were actually renegotiations of the U.S.-UK accord of 1938 in which Great Britain received much more concessions from the United States than vice versa (Eckes 1995, 149-153).

At the beginning of the 1940s, however, it was far from clear that the United Kingdom would enter into renegotiations with the United States at all. The United Kingdom faced a severe balance-of-payments problem and there were two opposing schools of thought about how the problem could be best mitigated. According to one line of argument, pure bilateralism and discrimination was the best instrument to stimulate exports and to ease the balance-of-payments difficulties (Gardner 1969, 28). The problem was seen in more or less closed foreign markets that made it difficult to increase British exports. Pure bilateralism was proposed as a means to open foreign markets. The British bargaining position was perceived to be strong in relation to weaker countries. Discriminatory trade agreements should be used as bargaining chips to set incentives for protectionist countries to open their markets to British goods (Wilcox 1949, 29-30). In light of the devastating experiences the United Kingdom had made with liberal trade in the interwar period, there were many proponents that favored managed, bilateral trade in order to keep tight control over the domestic implications of commercial policy (Gardner 1969, 30-33). In addition, the bilateralists were strong supporters of the British Imperial Preference, which was discussed in the previous chapter.
in greater detail. The Preference was seen as a suitable instrument to shelter domestic producers from competitive producers outside of the Commonwealth. Moreover, the Preference was seen as a bargaining chip that could be used in bilateral negotiations if the United Kingdom was to reduce its tariffs. Besides the economic role of the Imperial Preference, the latter became politically more important during World War II. Confronted with the attack from Germany, the Preference strengthened the identity of the Commonwealth members and let them stand together more closely (Gardner 1969, 33).

The other perspective, which became the official British position, argued for pure multilateralism. Among the proponents of this position were the leading British economists John Maynard Keynes and James Meads. The latter developed the arguments for multilateralism when serving in the Economic Section of the War Cabinet Secretariat (Enders 2002, 87-8; Gardner 1969, 28-29). The problem of British politics was perceived to be the same, namely, closed foreign markets. However, the conclusion with respect to the institutional form was precisely the opposite. The proponents of multilateralism opposed the position of the bilateralists on several grounds. First, a discriminatory trade policy had already demonstrated its disadvantages in the interwar period. The Imperial Preference and the absence of MFN treatment mitigated access to foreign markets, since Britain’s trading partners responded to British discrimination. In addition, the multilateralists were skeptical about Britain’s bargaining power, since Britain was strongly on overseas supplies (Gardner 1969, 36).

Second, the advocates of multilateralism expected that the balance-of-payments problem could be diminished more rapidly than bilateralism. A multilateral approach was expected to work more effectively against national resistance to liberalization, since protectionist forces were assumed to be less capable to hinder trade liberalization under a comprehensive effort to liberalize trade (cf., Meade 1988). However, the multilateralists also believed that a multilateral approach would not be without problems. They acknowledged that additional measures and safeguards needed to be adopted to effectively eliminate the balance-of-payments problem and to shelter the British economy from an instable world economy. Finally, the multilateralists also considered the Preference to be an important instrument, although they stressed the political element of the Preference much more than the bilateralists, who put more emphasis on the economic component. In sum, it can be said that the multilateralists favored a form of qualified multilateralism. Although the position of the bilateralists received much support in the population, the multilateralists gained the upper hand in the executive.
The Atlantic Charter
The United States and the United Kingdom entered into negotiations about the international economic order for the postwar era in 1941. The negotiations covered monetary and trade matters. The negotiations were held simultaneously and in many cases were linked to each other. However, I will concentrate on the trade negotiations in the following and address the monetary talks only where it is necessary to get a better understanding of the commercial matters. The first result of the talks between the United States and the United Kingdom was the Atlantic Charter of August, 1941. In the early phase of World War II (the United States was yet not involved in mid-1941) the Atlantic Conference mainly had political and military objectives. However, economic matters came on the agenda because of the Mutual Aid Agreement representatives of the United Kingdom and the United States were negotiating about in 1941. The Mutual Aid Agreement was about the terms of assistance of the United States for the United Kingdom in its war with Germany. At one meeting, John Maynard Keynes expressed a clear preference for pure bilateralism and discrimination in the British trade policy after World War II. Keynes changed his mind soon after and became a supporter of a multilateral trade policy, but in 1941 he was still a bilateralist. The U.S. representatives were worried by Keynes’ statement and because of this decided to make economic matters and the commitment to multilateralism a subject at the Atlantic Conference (Gardner 1969, 41-42).

The United States and the United Kingdom exchanged drafts of Charter before the Atlantic Conference. While the United States wanted a clear commitment to the elimination of discriminatory treatment, the United Kingdom (correctly) interpreted such an expression as the obligation to abandon the Imperial Preference after World War II (Gardner 1969, 42-52). As I discussed above, the representatives of the United Kingdom opposed the elimination of the Preference for various reasons. In the end, the United Kingdom could make its case. The United States and United Kingdom declared “[…] to further the enjoyment by all states, great or small, victor or vanquished, or access, on equal terms, to the trade and to the raw materials of the world which are needed for their economic prosperity” (Wilcox 1949, 37).

The Mutual Aid Agreement
The Atlantic Charter marked only the beginning of the U.S.-UK negotiations on the world trade regime. The next step were the talks on the Mutual Aid Agreement, where Art. VII covered commercial matters. The negotiations were launched by Keynes’ visit to Washington, which concerned the U.S. representativeness and let to the incorporation
of a commercial statement into the Atlantic Charter. The UK representatives underlined their two main points of concern: the balance-of-payments problem and the worries that mere trade liberalization on a non-discriminatory basis would make the UK economy vulnerable to economic depression abroad, most notably in the United States. The gap between the United States and the United Kingdom gradually decreased because of developments on both sides of the Atlantic. On side of the United Kingdom, Keynes changed his opinion on commercial matters. Once a proponent of bilateralism, he became convinced that non-discrimination might be better than bilateralism, which influenced the British position in the negotiations. One major factor causing this change was Keynes impression, gained in his discussions in Washington, that pure bilateralism might spur a trade war between the United Kingdom and the United States that the former could not win. However, the United States recognized that they had to approach the position of the United Kingdom to some degree. The draft of the Mutual Aid Agreement was modified so that the language reflected the two British concerns more (Gardner 1969, 58-59). Art. VII of the Mutual Aid Agreement stipulated that the two countries would “[…] promote mutually advantageous economic relations between them and the betterment of world-wide economic relations. To that end, they shall include provision for agreed action by the United States of America and the United Kingdom, open to participation by all other countries of like mind, […] to the elimination of all forms of discriminatory treatment in international commerce, and to the reduction of tariffs and other trade barriers […]”

The Agreement contained a commitment towards the elimination of the Imperial Preference. However, the elimination was made conditional on appropriate measures to secure employment and growth and trade liberalization by the United States. Nevertheless, the larger burden was imposed on Great Britain, since the United States did not maintain any trade restriction similar to the UK’s Imperial Preference. The United States considered this a fair deal, since this would provide Britain with generous support by the United States in the World War (Gardner 1969, 60). And in the first months after the signing of the Mutual Aid Agreement, some voices were raised in the United Kingdom that claimed that the Preference does not fall under Art. VII of the Agreement. However, most actors involved in the subject matter on both sides of the Atlantic agreed that Art. VII did cover the Imperial Preference and that it must be abandoned, at least in the long run. Liberalization by the United States, and other countries that would join the United States and the United Kingdom after World War II, was expected to mitigate the
balance-of-payments problem so that the Imperial Preference could be abandoned. So the United Kingdom was generally prepared to refrain from discriminatory treatment. In addition, the United States and the United Kingdom reassured each other that Art. VII does not mandate unilateral reduction of trade barriers, but reciprocal liberalization on a quid pro quo basis (Brown 1950, 48).

The Committee Negotiations

Art. VII of the Mutual Aid Agreement set the stage for negotiations about the precise terms of a world trade regime. Among the issues to be discussed were the bargaining mode to apply in trade negotiations and Imperial Preference. U.S. officials worked on a “multilateral convention on commercial policy” embodying rules and principles for a wide array of issues, such as tariffs, state-trading, and subsidies. At the same time, James Meade drafted a plan for a Commercial Union on the side of the United Kingdom. Both documents looked alike in many respects and formed the nucleus for the Charter of the International Trade Organization. Representativeness of the United States and the United Kingdom came together in Washington in September to discuss the details of the multilateral trade regime. The meeting served as a forum to exchange positions on the themes envisaged to become part of the Charter of the International Trade Organization (ITO) (Gardner 1969, 103-104).

Regarding the institutional mode of tariff reductions and the handling of preferences, the position of the United States and the United Kingdom still diverged. The U.S. representatives expressed their commitment to MFN treatment and made trade liberalization conditional on the elimination of the Preference (Gardner 1969, 107-108). Penrose, an official in the U.S. administration, nicely summarizes the position of the United Kingdom: “[…] it had been made unmistakeably clear to me that the method of bilateral negotiations was not regarded by the British as an adequate means for reducing trade barriers immediately after the war, and that tariff reductions under bilateral trade agreements would not be accepted as full discharge of the obligations arising out of Article II to reduce trade barriers. […] they would abolish preferences only in return for a heavy all-round and not a ‘selective’ reduction of tariffs and other trade barriers” (cited after Gardner 1969, 108). Penrose’s statement underlines the anxiety of the United Kingdom that bilateral bargaining, even in combination with MFN treatment, would only lead to selective liberalization and would give protectionist groups too much influence on trade cooperation, thereby slowing down the speed of liberalization. The
U.S. representatives anticipated problems in getting Congressional approval for a multilateral approach to trade liberalization. However, the State Department, which was in charge of the negotiations, was generally prepared to accept a formula cut in exchange for the elimination of the Preference. The meeting in Washington seemed to have narrowed the gap between the U.S. and the UK position, what was a misleading impression, however (Brown 1950, 50; Enders 2002, 88).

Refusal by Congress
Disagreement within the UK executive about the future course of the commercial negotiations further delayed the negotiations in 1944. Some ministers endorsed the way in which the negotiations developed. Others were skeptical for various reasons. Some feared that the balance-of-payments problem could not be resolved by multilateral means, some were reluctant to offer any concession at all on the question of Imperial Preference, some were anxious about the consequences of trade liberalization for domestic producers (Gardner 1969, 145). For these reasons, it was not before 1945 that the United Kingdom and the United States resumed their negotiations, which eventually produced Proposals for Consideration by an International Conference on Trade and Employment. In these negotiations, representativeness of the United Kingdom pushed stronger than ever for a multilateral formula approach reducing tariffs substantially (Gardner 1969, 150). The lower-level officials of the United States reassured the representativeness of the United Kingdom that they generally support the idea of a formula cut.

Consequently, the United States drafted of a multilateral trade convention that contained a corresponding provision at the end of 1944. At this time, higher-level officials became increasingly skeptical that a formula cut would find approval by U.S. Congress, who would have to ratify an ITO Charter. A multilateral approach was in conflict with the RTAA, however, which was scheduled for renewal in the summer of 1945. The State Department intended to modify the RTAA in combination with its renewal by Congress. A provision allowing multilateral approaches to trade bargaining was suggested for incorporation into the RTAA. The State Department tried to convince Congress by arguing that it would take care of the interests of domestic producers. State declared that “A rumor has freely circulated that certain American industries have been singled out as inefficient industries and that if the additional authority provided for in the bill is granted the State Department will use such authority to trade off these ineffi-
cient industries for other industries which can compete in the world market. Nothing could be further from the truth than this. The State Department has never construed the Trade Agreements Act as a license to remake the industrial or agricultural pattern of America” (cited after Kenen 1960, 50). However, it quickly turned out that U.S. Congress would not support the modification of the RTAA as suggested by the State Department. It was made clear that the RTAA, giving the opportunity to bargain multilaterally, would not pass Congress. The members of Congress feared that multilateral bargaining done by the State Department would lead to too deep a tariff cut and inflict too much competitive pressure on domestic producers. The proposed change of the RTAA was not submitted to Congress, which further demanded and actually received a “no-injury” commitment from the U.S. president, promising that domestic interests would be safeguarded in the negotiations on trade liberalization (Eckes 1995, 161; Enders 2002, 91).

The denial of Congress to accept multilateral bargaining put the U.S.-UK negotiations under serious stress. The talks were on the brink of failure, since the United Kingdom considered multilateral bargaining the only viable form for trade liberalization. Moreover, the elimination of the Imperial Preference seemed to be infeasible, since it had been made conditional on the application of multilateral bargaining in combination with a formula approach. The United States approached the position of the United Kingdom as much as possible by suggesting the so-called multilateral–bilateral approach, which is more correctly described as simultaneous MFN bilateralism. A closer look at the details of the bargaining procedure is in order to understand how tariff bargaining was conducted in the first five GATT rounds (cf., Curzon 1965, 72-75).

The Protocol of GATT Negotiations
In the first step, all Contracting Parties that were principal suppliers compiled lists of requests and submitted them simultaneously to the GATT Secretariat. A principal supplier is a country whose exports had held a market share of a certain size for some time. The size of the market share and the period of time were determined by the GATT Ministerial Conference. In practice, the principal supplier provision meant that a country $A$ could only demand a concession from country $B$ if $A$ was a principal supplier of one specific item for $B$ (Hoda 2001, 13-14, 27). The rationale for the principal-supplier rule was twofold. First, it aimed to reduce transaction costs. The concession a

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140 The principal supplier rule was relaxed at the Geneva Round of 1955/56 insofar as countries were allowed to act as a collective actor order to achieve principal supplier status (GATT 1956a, 80).
country granted to its principal supplier had to be generalized to secondary suppliers, which did not have to negotiate a deal of their own. Second, principal suppliers could not free-ride on the concession-making of secondary suppliers. If principal suppliers wanted to receive a concession, they had to give one in return (Kock 1969, 100).

In effect, requests were made on a bilateral basis. Moreover, the lists contained demands for specific items, meaning than an item-by-item approach was applied. The GATT Secretariat collected all lists and distributed them to all Contracting Parties, so there was full transparency on which country requested what from whom. Each country had the opportunity to review the request lists and to join another country in its request in order to emphasize the importance of this demand. Moreover, countries could evaluate whether a specific request, if matched by a corresponding offer, would be to their detriment. Assume that country A exports item X to country B and that this item competes with item Y, which country C exports to B. Items X and Y are not “like” products, meaning that a tariff cut for item Y would not cut the tariff on X through MFN treatment. Now, if country C requests and receives a tariff cut for Y, country A will suffer from trade diversion because its export conditions will remain unaltered. Countries were given the chance to inspect all the request lists and to ask other countries to modify their requests so as to prevent trade diversion. If the other country was not prepared to change its request, the adversely affected country could prepare itself accordingly for the real tariff bargaining.

The second step covered the exchange of lists of offers. As is the case for the lists of requests, the countries sent the lists to the GATT Secretariat, which forwarded them to the principal suppliers that made some offers too. This means that a principal supplier could only receive an offer if they were willing to give something in return. This reciprocity provision aimed to ensure that important traders could not free-ride on the concession-making of smaller countries. Seen the other way, the reciprocal exchange of concessions between principal suppliers made it certain that smaller countries could benefit unilaterally from the concessions of more powerful countries. The exchange of lists of requests and offers set the stage for tariff bargaining. The negotiators assessed in advance the concessions they could receive and grant through bargaining and MFN treatment. The overall evaluation of the lists provided the basis for the bargaining strategy to be taken.

This was the point in the GATT procedure at which the U.S. administration developed its bargaining strategy. On the basis of the lists of requests and offers, the ex-
executive compiled a list of items that it wanted to offer for tariff reductions at the beginning of the negotiations. These suggestions were submitted to the U.S. Tariff Commission, which determined the effects of the potential reductions on domestic producers and the U.S. economy. Moreover, producers and associations had the opportunity to participate in public hearings and to convey their opinion on the proposed tariff cuts. At the end of this process, the U.S. negotiators knew the items designated for tariff reductions and those that were to be excluded from bargaining.

The third step in the procedure involved the tariff negotiations. The bargains were bilateral until the Kennedy Round, which started in 1963. Two principal suppliers negotiated with each other until they achieved a mutually acceptable bargain or no such outcome was deemed feasible. According to the literature, it was not unusual to consult additional countries before a bilateral bargain was settled (or terminated). MFN treatment made it difficult for negotiators to immediately know all the countries that would benefit or suffer from the concessions exchanged in a bargain. In a similar vein, negotiators needed to know what concessions they would receive from MFN treatment by other countries. In order to take the implications of MFN treatment into account, informal consultations often involved more countries than those formally party to a bilateral bargain. In some cases, Contracting Parties created a circular swap. In 1955, for example, the United States received a concession from Japan, which only granted it since it got a concession from Europe, which in turn obtained a concession from the United States (Curzon 1965, 75). If two countries came to an agreement, the terms of the deal were deposited at the GATT Secretariat. The bargain did not receive formal status until all countries concluded their negotiations and all bilateral deals were included in the tariff protocol. This means that the termination of a GATT round required unanimous approval. Thereby, each country had the opportunity to assess the complete package and the implications it would bring about.

The U.S. representatives argued that simultaneous bilateral negotiations would be similar to a formula cut in effect because of MFN treatment applying to all concessions that are bilaterally exchanged (Gardner 1969, 151). As I detailed in section 2.1, this contention is wrong insofar as MFN treatment applies to a particular item. A formula cut, in contrast, is an across-the-board approach to tariff reduction. Nonetheless, the United Kingdom ultimately agreed to this approach because it seemed possible to achieve their own goals under this procedure (Enders 2002, 92). The decision to support the multilateral-bilateral approach can also be partly attributed to the final provision on British
preferences. On the one hand, no new preferences were to be created or existing preferences to be increased. On the other hand, preferences were automatically eliminated if the country reduced the respective tariff in the course of tariff negotiations (Gardner 1969, 153). This meant that the United Kingdom had largely kept control over its preferences since it could well circumvent those tariff reductions that would eliminate the Preference in its bilateral negotiations. As a matter of fact, the United Kingdom could harbor most of its preferences in the first GATT round in Geneva in 1947, which was the first occasion at which the multilateral-bilateral approach was applied (Gardner 1969, 355-357).

The multilateral-bilateral approach proved successful for trade liberalization. 23 countries participated at the Geneva Round and made 123 bilateral deals. The concessions that were exchanged covered approximately 45,000 items, which accounted for about one half of world trade (Curzon 1965, 81; Kock 1969, 70). However, the deficiencies of the multilateral-bilateral approach quickly became apparent in the following GATT rounds. Before I discuss the further developments in the following, I assess the empirical evidence on the negotiations about the GATT 1947 in the light of my hypotheses.

Conclusion
The case of the U.S.-UK negotiations on the GATT yields evidence that supports and contradicts my model. I conclude that my model explains well the behavior of the United States. The State Department officials in charge of the trade agreements program conceived of trade policy as a means for the pursuit of foreign policy goals. They were prepared to conclude asymmetric bargains that increased imports more than exports in order to avoid dollar shortages abroad and to stabilize the political and economic situation in allied countries. The larger goal behind this strategy was to counter the influence the Soviet Union tried to exert in Europe (Eckes 1995, chap. 5). As I mentioned in the previous chapter, the State Department negotiated bilaterally in the 1930s so as to strike agreements that satisfied the specific needs of its bargaining partners. In the case of the negotiations with the United Kingdom, however, this meant the pursuit of multilateral bargaining, since it sought this form of cooperation. This means that the State Department was prepared to adapt its institutional preference on the form of bargaining to the demands of foreign countries. I have argued in section 2.6 that the pursuit of foreign policy goals might prevail over concerns about distribution, which is most likely the
case for the State Department. In this view, the behavior of the State Department is not a contradiction of my model.

The U.S. Congress acted precisely as hypothesized. The members of Congress were dissatisfied with the State Department’s neglect of the domestic implications of U.S. trade policy. The change in the form of bargaining that was sought by State in the course of the extension of the RTAA was rejected. It was believed that the change in the institutional form would have even more detrimental domestic consequences. Therefore, Congress insisted on MFN bilateralism and opposed multilateralism. Although Truman also attached foreign policy goals to the Reciprocal Trade Agreements Program, he gave the members of Congress the no-injury promise they demanded. In the end, the president gave priority to the domestic politics of trade-policy making and at least partially sacrificed his foreign policy objectives. Both findings are in line with my model. Moreover, they emphasize that the more immediate the link between economic and political actors, the stronger the logic of domestic politics shines through in trade-policy making.

The behavior of the United Kingdom partially confirms and partially contradicts my hypotheses. One argument of the proponents of pure bilateralism was that domestic producers could be best sheltered from import-competition on this form. This observation supports the hypotheses that pure bilateralism is sought when political actors take a protectionist position on trade cooperation. In addition, it was argued that discrimination in the form of pure bilateralism would strengthen the bargaining position of the United Kingdom. This would allow it to reap more concessions from its mostly weaker bargaining partners. This argument reflects the logic that underlies the theory of domestic political support. Finally, the dispute on the Imperial Preference supports my model to some degree. Representatives of the United Kingdom were aware of the bargaining power embodied in the system of preferences. The preferences discriminated against importers from the U.S., while the United States maintained no comparable system of preferential agreements discriminating against the United Kingdom. The United Kingdom made use of this asymmetric situation in its negotiations with the U.S., trying to get as many concessions as possible (Eckes 1995, chap. 5). However, the case of the United Kingdom also shows that balance-of-payments problems can be a determinant of multilateral bargaining. The proponents of the latter form of bargaining argued that the balance-of-payments problems could be best mitigated by broad and extensive tariff cuts. These were in turn expected to be best achieved through multilateral bargaining. This observation is in discord with my model, which predicts concerns
This observation is in discord with my model, which predicts concerns about enforcement and high transaction costs as the driving force behind multilateral bargaining.

6.2. The Kennedy Round

The Annecy Round and the Torquay Round
The prime purpose of the Annecy Round in 1949 was an expansion of the membership of the GATT. A couple of countries that did not join the GATT in 1947 negotiated about their accession in the second GATT round (Kock 1969, 70). The third GATT Conference took place in Torquay in 1950 and 1951. The United States announced during this round that the Charter of the ITO would not be ratified since Congress refused to approve it. Congress believed that the ITO would get too much authority in matters that should be better handled by the United States and the Congress in particular (cf., Diebold 1952). Thus, the General Agreement had to be consolidated and its role in world trade cooperation deserved discussion. Besides the need to handle the death of the ITO, the Contracting Parties came together to negotiate about further tariff reductions.

Three factors accounted for the fact that the Torquay Round achieved much less liberalization than Geneva 1947. First, the Contracting Parties had offered concessions on items that did not cause serious opposition from domestic producers. This became more and more difficult as tariff bargaining in the GATT proceeded. Second, Great Britain, and the Commonwealth countries in general, continued to defend its Imperial Preference. As I mentioned above, preferences were only to be reduced if a Commonwealth country reduced the corresponding tariff in the course of bargaining. The elimination of the preference was avoided simply by not making any concessions on items on which a preferential tariff was maintained. Since the Commonwealth countries refused to offer tariff cuts on those items that were particularly salient to other countries, the latter were in turn reluctant to make concessions that would have to be generalized to Commonwealth countries through MFN treatment (Kock 1969, 70).

The third factor inhibiting further liberalization was the discontent of low-tariff countries about the mode of tariff bargaining. In particular, the low-tariff countries of Europe, namely, the Benelux and Scandinavian countries, were dissatisfied with the GATT provisions on how to treat low duties in reciprocal bargaining. Art. 28, par. 2 (a) stipulated that “the binding against increase of low duties or of duty-free treatment shall, in principle, be recognized as a concession equivalent in value to the reduction of

\[141\] The concessions exchanged at Torquay covered approximately 8,700 items compared to 45,000 items in the first round.
6. The World Trade Regime after World War II

high duties”. This provision was introduced in 1947 at the insistence of the low-tariff countries. They anticipated that they would not have many bargaining chips in reciprocal bargaining with high-tariff countries if no special credit were given for low duties. Art. 28 par. 2 (a) only postponed the problems for low-tariff countries. They were able to reap concessions at the Geneva Round in 1947 by exchanging bindings against foreign tariff cuts. In contrast to tariff cuts, however, tariffs can only be bound against increases once, meaning that the low-tariff countries had not much to offer in Torquay in 1951 (Curzon 1965, 87).

The European low-tariff countries were generally bothered by the high duties of other Contracting Parties, but they were particularly concerned about tariff disparities within Europe.\(^{142}\) As a consequence of that, the so-called Group of Ten made a move toward tariff harmonization at the Torquay Round.\(^{143}\) The goal of the Group of Ten was to find a way to make “a sufficient contribution towards the creation of a single market in Europe” (GATT 1951a, 1). A Working Party was established to search for solutions to the problem of Intra-European tariff disparities. France, however, rushed ahead of the Working Party by proposing a formula cut of 30 percent, applicable to all Contracting Parties and manufactured and agricultural products alike. Exceptions to the formula had to be applied for at a committee yet to be installed. This body could grant waivers on the basis of specific guidelines, allowing, for example, the exemption of infant industries (Curzon 1965, 89-90).

The French proposal was attacked by both high-tariff and low-tariff countries. The high-tariff considered this too bold a move toward trade liberalization. On the other hand, the European low-tariff countries complained that the suggested formula would not contribute much to the creation of a European market in the short run. The French formula would bring the contracting parties closer to free trade, but it would not lead to the harmonization of European tariffs. Moreover, the low-duty countries believed that a formula cut applicable to all GATT countries would lead to protracted discussions about the details, which would further delay the unification of the European market (GATT 1951b). Other countries put forward their own plans, but neither of these found support

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\(^{142}\) The case of tariff harmonization in Europe was also discussed in the Organization for European Economic Cooperation (OEEC), but the matter was finally handled in the GATT until the foundation of the European Economic Community and the European Free Trade Association (Curzon 1965, 88).

\(^{143}\) The Group of Ten involved Austria, Belgium-Luxembourg, Denmark, France, Germany, Italy, The Netherlands, Norway, Sweden, and the United States (Curzon 1965, 88).
among the contracting parties, so no change in the bargaining mode could be achieved at the Torquay Round (Curzon 1965, 90-92).

The Geneva Round of 1955-56
France continued to pursue a formula cut in the years after the Geneva Round of 1950-51. It considered the criticisms that were raised against its original proposal and adjusted it accordingly. The Benelux counties, which had formerly opposed the French plan, now embraced the French proposal. They were prepared to negotiate tariff cuts on the ground of the French formula, now called GATT Plan, provided that the major Contracting Parties would follow them in doing so. The chance to apply the new bargaining mode came in 1956 when the fourth GATT round was held in Geneva. The Intersessional Working Party on Tariff Reductions assessed how far and in what way multilateral bargaining was possible (Curzon 1965, 92-93). A “majority of the Working Party expressed their preference for the application of multilateral procedures along the lines of the GATT Plan” (GATT 1955, 2).

However, it quickly turned out that the United States would not approve the GATT Plan. The import-competing producers in the United States started to feel the effects of the trade liberalization that was achieved since 1947. Their resistance against further tariff reductions increased and constrained the room of maneuver of the U.S. executive. On the other hand, the European countries had reduced their barriers to trade less than the United States, implying that the positive effects of reciprocal liberalization were more on the side of European exporters than those of the United States (Kock 1969, 84). This domestic constellation shaped the Geneva Round of 1955-56 inasmuch as it influenced the extension of the RTAA in 1955. The RTAA was prolonged for three years and gave the U.S. president the authority to reduce duties by 15 percent. In addition, Congress mandated the item-by-item procedure. The relatively short time for negotiations, the limited opportunity to cut tariffs, and the necessity to bargain selectively all stood in contrast to the GATT Plan and more ambitious liberalization. The U.S. executive was still bound by Congress that was concerned about the domestic political backlash of substantial across-the-board reductions (Curzon 1965, 93).

Because of the United States reluctance to apply a multilateral procedure, the United Kingdom refused the GATT Plan, too. Furthermore, the representatives of the United Kingdom made clear that they saw “great political difficulty in accepting any proposals which would lead other countries to expect us to go further in the reduction
of the United Kingdom tariff than the United States Government would be able to go in reducing the United States tariff” (GATT 1955, 11). Since two of the major trading powers in the world refused to follow the GATT Plan, it was dropped and the traditional bilateral item-by-item mode was applied (GATT 1955).

Notwithstanding that multilateral bargaining was infeasible, the Working Party tried to strengthen the multilateral elements of the negotiations where possible. This was to be achieved by two means. First, the contracting parties were encouraged to compile consolidated lists of offers. The drafting of a single list intended to break the tradition of exchanging lists within dyads. The rationale for this change in the procedure was the observation that contracting parties had been very anxious to achieve reciprocity in bilateral negotiations in the previous three rounds. It was hoped that the drafting of a consolidated list would weaken the concerns for bilateral reciprocity in favor of a multilateral perspective on the concessions that were granted and exchanged. However, the multilateralization of the initial phase of the negotiations had to keep a bilateral element inasmuch as bargaining remained bilateral. The contracting parties drafted consolidated lists, but supplemented each offer with the name of the country the offer was directed at (GATT 1955, 3). This modification of the GATT procedure was accompanied by the contracting parties’ promise of “making overall concessions commensurate with the overall concessions received” (GATT 1956a, 80). In combination with this point, it is worth mentioning that the negotiators were “expected to take into consideration the indirect benefits which they will receive from the negotiations between other governments” (GATT 1956a, 82). This provision encouraged countries not to use MFN treatment to free-ride on the concession-making of other countries.

The second new element of multilateralization referred to the role of the Tariff Negotiating Committee (TNC) that managed the bargaining process. The TNC had the task of identifying bilateral bargaining stalemates that might be resolved by (a) pointing to concessions one or both of the countries would receive through MFN treatment, or (b) by adding additional countries to the bargain, which would effectively multilateralize the bargain. The expansion of bilateral bargains was occasionally practiced in the previous GATT rounds, so it was not an entirely new procedure. But the increase in Contracting Parties made it more and more difficult to identify other countries that could help to eliminate a bilateral deadlock, so this task was centralized in the TNC (GATT 1955, 7).
Nonetheless, the representatives of many countries were rather dissatisfied with this result and predicted the Geneva Round would be a failure (GATT 1956b, 1956c, 1956d, 1956e). As a matter of fact, the extent of trade liberalization that was achieved was modest, notwithstanding that the U.S. negotiators went almost as far as they could on the basis of the RTAA. One major reason for the meager success was that the low-tariff countries had little, if anything, to offer in the fourth GATT round, so they could not much contribute to trade liberalization. Accordingly, the Geneva Round of 1956 was mostly considered a failure (Curzon 1965, 94-95).

The Formation of the EEC and the Dillon Round

The creation of a customs union in the course of the formation of the European Economic Community (EEC) in 1958 was to some degree a consequence of the discussions in the GATT during the preceding eight years. The development in the GATT was in turn a result of the intentions of some European countries to establish a Single European Market. A European customs union would have been created anyway for economic and political reasons. However, the discussion of tariff harmonization in Torquay 1950-51 and Geneva 1956 accelerated this process (Curzon 1965, 96). The member countries of the EEC agreed to harmonize their external tariffs to a Common External Tariff (CET).

On the one hand, the European customs union was a partial product of previous GATT rounds. On the other hand, it had important implications for the future of the GATT. The EEC members harmonized their external tariff at a level that was above the duty of the member having the lowest tariff. In effect, some EEC members had to increase their tariffs. As far as these tariffs had been bound in previous GATT rounds, the General Agreement mandated renegotiations (Kock 1969, 87). Art. 24 of the General Agreement required the country that aims to increase a duty to enter into renegotiations in which it has to offer compensatory concessions of equivalent size so that the foundation of the ECC required a new GATT round.

A second factor contributing to the conduct of a new GATT round was worries about trade diversion. All countries that were not members of the EEC feared that their trade volume would decline because of increasing intra-EEC trade (U.S. Congress 1961, 41). Great Britain and other European countries expected at least partial compensation through the creation of the European Free Trade Association (EFTA), which spurred the concerns of the United States about trade diversion even more. The so-called Dillon

144 Politically, the creation of the EEC was welcomed by the U.S. With respect to international trade, it was seen with suspicion because of worries about trade diversion (Curzon and Curzon 1976, 168).
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Round, named after the U.S. Under Secretary of State for Economic Affairs who set the stimulus for the fifth GATT Conference, had two purposes: compensatory negotiations due to the harmonization of the EEC members’ external tariff, and ordinary tariff negotiations that would be concluded before the invention of the CET on January, 1, 1962 (Curzon 1965, 97-99; Curzon and Curzon 1976, 168-169).

The negotiations were held in the traditional bilateral item-by-item mode. The negotiations turned out to be very time-consuming. The EEC argued that the harmonization of the EEC members’ external tariff at the arithmetic mean would yield, on average, sufficient compensation for the increase of low tariffs. This formula would have settled the negotiations quickly, but it was rejected by the Contracting Parties. The objection of the formula did not come as a surprise. It was by no means guaranteed that those countries that suffered from tariff increases would benefit from the reduction of other tariffs. Consequently, each country demanded specific compensations which were negotiated bilaterally under the item-by-item approach (Curzon and Curzon 1976, 170-171).

After the compensatory negotiations had been settled, the second part of the Dillon Round, aiming at further tariff cuts, was opened. The EEC made a bold move toward tariff reduction by offering a linear cut of 20 percent. The reason for this proposal lay in the EEC countries’ concerns about distribution. France and Italy aimed to achieve an Intra-European free trade area quickly. The Benelux countries and Germany opposed the rapid substitution of Extra-European trade by Intra-European trade and demanded that the stimulation of Intra-European trade should be accompanied by a cut of the CET by 20 percent. Since there was no will to liberalize the CET unilaterally, the EEC made a 20 percent tariff reduction its bargaining position at the Dillon Round. The reasons for this Intra-European dispute were to a large degree rooted in each country’s concern about the domestic distributional effects of a common trade policy (Curzon and Curzon 1976, 175).

The United States, however, could not accept this offer for two reasons. The RTAA that authorized the U.S. executive to participate in the Dillon Round provided for a maximum cut of 15 percent and did not allow the application a formula approach. Consequently, the negotiations had to take place within the limits set by the RTAA. The U.S. negotiators exhausted their negotiating authority with respect to the maximally allowed tariff cut in the course of the round, while at the same time causing minimal risk for the U.S. industry (Curzon and Curzon 1976, 174). Nonetheless, the negotiations
were intricate and less liberalization was achieved compared to what would have been possible under a formula approach (Curzon 1965, 99-100).

The discontent about the traditional bargaining mode was once more expressed at a GATT ministerial meeting at the end of the Dillon Round in 1961 (Curzon 1965, 103). The ministers found that item-by-item negotiations “were no longer adequate to meet the changing conditions of world trade”, and that “the adoption of new techniques, in particular some form of linear tariff reduction” was necessary (cited after Preeg 1970, 41-42). The next GATT round eventually witnessed the long-desired introduction of multilateral bargaining and a formula approach.

The Decision for a New GATT Round

The Kennedy Round was the sixth trade round in the history of the GATT, going back to the efforts of U.S. President John F. Kennedy. It was already before the end of the Dillon Round that he considered a new, ambitious trade round necessary. Kennedy laid out the reasons for his positions in a special message to the U.S. Congress on January 25, 1962. Perhaps the most important factor was substantial concerns about trade diversion due to the formation of the EEC. Another central concern was the worsening balance of payments, which already bothered Eisenhower in the mid-1950s (Eckes 1995, 181). After decades the U.S. balance of payments turned from positive into negative. The United States hoped that substantial liberalization achieved by a new GATT round would stimulate American exports and diminish the balance of payments problem. Furthermore, the U.S. economy grew slowly in the 1950s. A stimulation of international trade was expected to stimulate the domestic economy and to produce new jobs. Kennedy also attached political goals to the new trade round. Collective, ambitious liberalization by Western countries would deepen their economic integration and, because of that, sharpen their political identity vis-à-vis the Warsaw Pact countries. Finally, the new GATT round should enhance the trading conditions for Japan and developing countries (Curzon and Curzon 1976, 177).

Previous U.S. administrations had also recognized that the traditional GATT bargaining mode was an obstacle to the liberalization. But they had not decisively pushed for a change of the mode vis-à-vis the Congress. The situation was different for the Kennedy administration, which was determined to equip its negotiators with the necessary tools to bargain about barriers to trade. George Ball, U.S. Under Secretary of State, started to pave the way for a change in the bargaining mode in a public speech in No-
November 1961, closely after the end of the Dillon Round. He declared that “[...] we can no longer afford to limit our negotiators to trading on an item-by-item basis [...]” (cited after Preeg 1970, 46). The first sentence reflects the experiences the U.S. negotiators had made at the Dillon Round, where they were unable to agree to the formula cut of 20 percent as proposed by the EEC. The second sentence refers to another lesson learned at the Dillon Round. As I reported above, the non-members to EEC were able to negotiate compensations for the increase in the EEC’s external tariff in bilateral item-by-item bargains. The negotiations could be successfully settled, but they were quite protracted. In the words of the Joint Economic Committee of Congress, which evaluated the implications of the EEC for U.S. trade policy, “reciprocal reductions on individual rates has been slow, cumbersome, and artificial, and would be ineffective in dealing with the new situation created by the enlargement of the Common Market. Instead, authority will be needed [...] to make the same kind of “across-the-board” cuts that the European countries have been doing vis-à-vis each other” (U.S. Congress 1961, 41-42).

A major reason for the protracted negotiations was that the EEC members watched carefully the distribution of the costs and benefits of trade liberalization. No country wanted to incur costs by granting a concession if the concession the EEC received in return was to the benefit of another country. While distributional goals could be better achieved in item-by-item bargaining, the EEC members recognized that the bargaining process could be vastly accelerated by switching to a formula approach (Curzon and Curzon 1976, 175). Since tariff bargaining at the Kennedy Round would cover much more items than the renegotiations at the Dillon Round, it was expected that bilateral item-by-item negotiations ceased to be feasible (Eckes 1995, 181-183; Evans 1971, 152-153).

A second factor speaking for a change of the bargaining approach was the observation made at the previous GATT rounds that, now that the domestically uncontroversial tariffs had been reduced, it had become increasingly difficult to achieve tariff cuts. In particular, the GATT negotiators experienced problems when engaged in inter-sectoral bargaining, meaning that the costs and benefits of a reciprocal tariff cut fall

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145 As I explained above, the EEC’s offer of a 20 percent linear cut at the Dillon Round was also rooted in EEC-internal disputes about the distribution of the gains and benefits of internal tariff harmonization.

146 The empirical record actually shows that the problems of finding a compromise among the members of the EEC were not smaller during the Kennedy Round (Kock 1969, 130-131).
within different sectors of the domestic economy. Since it was thus difficult to link issues across sectors, the negotiators tried to achieve reciprocity within sectors. This is, however, not always easy to achieve because of the trade profile of a country. As a consequence, the bargaining process becomes drawn out (Curzon and Curzon 1976, 175).

Ball’s claim that the old mode became out-dated was emphasized by Kennedy, who also suggested replacing item-by-item negotiations with a linear approach. Kennedy lamented that item-by-item negotiations gave too much credit to organized interests. Special interest groups would find it much more difficult to influence concession-making if the latter were based on a formula approach (Kaplan 1996, 68).

The change in the position of the U.S. executive was welcomed by representatives of the EEC. Jean Rey, who later became chief negotiator for the EEC in the Kennedy Round, announced that “if we are to achieve a really substantial reduction in tariffs, we must follow the linear method [...] all the governments presented here [at a preparatory ministerial meeting in Geneva] should be urged to equip themselves at home with the political, legislative, and administrative weapons that will enable them to take part next time in negotiations for reducing tariffs not only on a product-by-product but on a linear basis” (cited after Preeg 1970, 43). Ludgar Westrik, spokesman of the EEC, added: “As the Community sees it, substantial progress towards the reduction of tariff barriers will in the future be achieved only by the method of linear reduction. The integration programmes now being operated [by the EEC and the EFTA] have, moreover, shown that by this method the very understandable resistance of those whose interests are affected can be overcome and the particularly high customs duties which, for various reasons, have so far not felt the effects of GATT action can be also be reduced” (cited after Preeg 1970, 43).

Preparing for the Kennedy Round: The Trade Expansion Act
At the beginning of 1962, the U.S. administration submitted a draft of the Trade Expansion Act (TEA) to Congress. The TEA involved several new provisions. First, the executive demanded the authority to cut tariffs up to 50 percent, compared to the 20 percent that were the maximum at the Dillon Round. Second, the president should be allowed to eliminate tariffs altogether if the EEC and the United States shared more than 80 percent of world trade in this specific commodity. Third, items with an ad valorem

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147 The TEA provided for four exemptions of the 50 percent authority which however did not play a substantial role during the negotiation (Curtis and Vastine 1971, 14).

148 See Kaplan (1996, 68) for an enumeration of the goods in question.
tariff of 5 percent or less (or its specific tariff equivalent) could be completely eliminated (Curtis and Vastine 1971, 19). Fourth, the United States should be able to negotiate a formula cut in contrast to the item-by-item approach that had been applied since the introduction of the RTAA in 1934. Fifth, the escape clause provision should be curbed by only applying it if a complete industry was injured by imports. Sixth, the executive intended to implement a domestic adjustment program that was inspired by the adjustment programs with which the European countries supplemented the creation of the EEC and the EFTA respectively (U.S. Congress 1961, 42). Domestic adjustment would be granted if parts of a multi-product industry suffered from import-competition (Eckes 1995, 185-186; Kaplan 1996, 68-69; Preeg 1970, 48). The U.S. administration was aware that trade negotiations pursued on the basis of the TEA would inevitably harm domestic producers. The unofficial attitude toward domestic adjustment assistance was that “adjustment assistance is politically desirable, [while it is] not likely to be of much help in practice” (cited after Eckes 1995, 186). Kennedy admitted that a successful Kennedy Round would curb import-competition for U.S. producers, but at the same time claimed that the export industry and consumers would benefit more. The TEA received support from export-oriented industries and labor unions, the latter because they considered the suggested domestic assistance as beneficial for workers. Import-competers were concerned about the implications of the TEA and strongly opposed its liberal orientation (Eckes 1995, 186-188; Kaplan 1996, 69-70).

The Republicans in the House Ways and Means Committee, which were generally leaning toward protectionism, took up the criticism of the protectionist producers. In particular, they lamented that domestic adjustment assistance was given superiority over tariff protection. Instead, the Republicans wanted to maintain tariffs as the prime instrument for protection. Adjustment assistance should only be granted as a second-order means, i.e., when tariffs fail to protect domestic producers. Moreover, the Republicans members of the Committee aimed to limit the 80 percent provision to products where the United States contributed more than 30 percent to world trade. Seen from the other side, this proposal aimed at protecting producers of products in which Europe held a substantially larger share of world trade. However, the draft submitted by the executive received majority support by the House Ways and Means Committee and was passed for decision to the House floor (Kaplan 1996, 72-73).

Nonetheless, the TEA was criticized by a coalition of House members from both parties. The opponents of the bill complained that “gradual and selective tariff reduc-
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ation, one which gives public consideration to each item before any reduction in tariff is made, and which provides opportunity for reconsideration when serious injury occurs or is threatened” (cited after Eckes 1995, 189). This quote exemplifies that the change in the bargaining approach and the partial replacement of escape-clause action by adjustment assistance were to the particular concern of protectionist members of the House. The TEA, however, received bipartisan majority support in the House and was passed over to the Senate Finance Committee. There, protectionist-minded senators raised the same criticism against the TEA. The draft, however, received broad support in the Senate. All the major provisions of the ETA were endorsed by a majority in both chambers of Congress (Kaplan 1996, 73-74). A factor that favored the passage of the TEA was that the hearings were held parallel to the Dillon Round. The dragged out bargaining process at the Dillon Round and the inability of the United States to accept the formula approach of the EEC furthered the U.S. executive’s goal of changing the bargaining mode (Curzon and Curzon 1976, 178).

While the U.S. administration received a broad mandate by Congress to negotiate trade liberalization, the latter tightened its grip on the administration in the conduct of the negotiations. The State Department had been in charge of trade bargaining since the introduction of the RTAA. As could be shown in the previous chapter and the preceding section, the RTAA was mostly concerned with achieving foreign policy interests through trade cooperation. This was to the distress of members of Congress who were predominantly concerned with their constituency’s interests. The mismatch of interests between the State Department and U.S. Congress, which had also been apparent during the Dillon Round, eventually was the reason for why the role of State in trade negotiations was strongly curbed (Eckes 1995, 183; Kaplan 1996, 75).

First of all, the TEA would be administered by a special representative for trade negotiations (SRT). The representative would incorporate economic actors and government agencies in the trade negotiations by seeking their opinion on trade matters and reporting back to them the state of the negotiations. The position of the SRT was written into the draft version of the TEA by the House Ways and Means Committee. The explicit goal of the Ways and Means Committee was to deprive the State Department of the right to administer the TEA and to put emphasis on different aspects than State did in the past. An Executive Order by President Kennedy clarified the SRT’s tasks and created the administrative structure standing behind the SRT. Since the SRT was directly responsible to the U.S. president, his was an agency within the president’s execu-
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tive office. Furthermore, committees were established that all served to coordinate the interests of different departments in the U.S. executive and to inform Congress and interested economic actors about the U.S. trade negotiations. The inter-departmental coordination and the distribution of information were backed up by a new institutional structure comprising several committees that exclusively served this purpose.

Moreover, a new sophisticated procedure for determining the U.S. bargaining strategy was installed by Congress. The SRT compiled a list detailing items on which the U.S. executive intended to bargain about. The Tariff Commission commented on the list independently and submitted the report to the president. Afterward, extensive public hearings were held in which U.S. producers and associations could issue their opinion on what concessions ought to be avoided or received in the negotiations. Parallel to this process, the office of the SRT collected data on a wide array of items and issues that were to be dealt with during the Kennedy Round. At the end of this process, the SRT prepared the bargaining strategy of the United States.

In addition to the invention of the SRT, U.S. Congress gave itself the right to credit two Democrats and two Republicans from the House and the Senate to the trade delegation. Thereby, the members of both parties in the House and the Senate laid the basis for staying informed about the state of the negotiations at the Kennedy Round (Curtis and Vastine 1971, 9-13).

The Preparatory Meeting for the Kennedy Round

At the beginning of the 1960s, when the first preparatory talks had already been held at the Dillon Round, a linear cut seemed to be the mode to be applied at the Kennedy Round. In the course of European integration, the EEC countries reduced their internal tariffs on basis of a linear approach. As I have mentioned above, the EFTA members did the same. Moreover, the EEC proposed to reduce tariffs by 20 percent at the Dillon Round. This proposal was doomed to fail, since at that time the U.S. negotiators were still bound by Reciprocal Trade Agreements Act (Eckes 1995, 182-184). Since the TEA paved the way for a linear cut of U.S. tariffs, the latter seemed the preferred bargaining approach of all major countries at the Kennedy Round. The United States proposed to reduce tariffs on manufactured and agricultural goods by 50 percent, with a minimum of exceptions that were saved for bilateral bargaining. In the preparatory meetings of the Kennedy Round, the EEC suddenly showed reluctance to apply a linear cut. Two issues were central for the EEC. First, it wanted to negotiate separately about manufactured
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and agricultural goods. The EEC aimed to negotiate the two types of goods on separate tracks because of the Common Agricultural Policy (CAP) that had only recently been installed by the EEC. In addition, tariffs were still an important barrier to trade for manufactured goods, whereas non-tariff issues figured more prominently in the field of agriculture. In the end, the EEC could make the case vis-à-vis the United States and the negotiations on manufactured and agricultural goods were held in distinct groups.

The second problem the EEC had with a linear cut was related to the structure of the United States and EEC tariffs on manufactured goods. The average tariffs of the EEC and the United States were nearly equal. But the dispersion of their tariffs was quite different. U.S. tariffs dispersed more widely, meaning that the U.S. tariff schedule included a couple of peak tariffs. In contrast, the European tariffs were more evenly distributed, so there were fewer high tariffs, but also fewer low tariffs compared to the United States. The situation at the Kennedy Round was different from the tariff disparity conflict in the 1950s. Then, there was a dispute between countries that had different average tariff levels. In the 1960s, the average tariff of the EEC and the United States was nearly the same, but the dispersion differed fundamentally. (Kock 1969, 102)

The EEC opposed the application of a linear cut because of the different tariff dispersions. This issue became known as the disparity problem and caused much trouble during the Kennedy Round. According to the EEC negotiators, a linear cut would be to the disadvantage for the EEC because of the tariff disparities. Peak tariffs were still comparatively high after the linear reduction, while all other tariffs lost even more of their protective effect and became nearly irrelevant. Because of this, the EEC put forward its so-called écrêtement proposal, suggesting reducing tariffs through a harmonizing formula. The United States took the opposite perspective. Its negotiators contended that a reduction of 50 percent of a high tariff was a larger concession than a 50 percent reduction of a tariff that was already low. The U.S. negotiators acknowledged that some disparities, “meaningful in trade terms”, needed to be discussed on their own terms. However, the United States believed that these were only a few items that could be dealt with in an item-by-item procedure (Curtis and Vastine 1971, 83-84; Kaplan 1996, 76-77; Preeg 1970, 64).

Interestingly, the arguments of EEC negotiators were also delivered by some attendants during the Congressional Hearings for the Trade Expansion Act in 1962. Some of the participants in the hearing believed that the EEC tariffs were more widely dispersed than the U.S. tariffs. Accordingly, it was argued that a harmonization cut should
be applied or that the EEC should even unilaterally reduce its allegedly existing peak tariffs (Evans 1971, 150-151). Another reason for rejecting écrêtement was the comparatively small depth of liberalization that would have resulted. Écrêtement would have only produced an average cut of 10-12 percent.

In addition to the dispute between the United States and the EEC, the so-called third-country problem bedeviled the negotiations on a formula approach. The problem denotes the situation that a satisfying formula for the EEC and the United States might produce little benefit to third countries. More precisely, a harmonization formula would not cut the EEC tariffs much, but the EEC would benefit from the comparatively larger cut of the U.S. peak tariffs. The United States did not care much about the EECs tariff levels, because a country rarely is an exporter of a commodity whose domestic production is protected by a high tariff. However, third countries that export to the EEC are interested in a substantial tariff cut of the latter, which, however, would not result under a harmonization formula. Essentially, the third-country problem goes back to the incompatibility of the principal supplier and a formula approach. Principal suppliers can make requests and offers that fit their individual needs in bilateral item-by-item bargaining. Evidently, this is not possible in an across-the-board approach, since one formula applies to all countries. Since the United States and the EEC were the dominant actors in the negotiations about a formula, smaller countries that held principal-supplier status on some products were in a disadvantaged bargaining position. The consequence was that third countries might withdraw some of their previously offered concessions in order to compensate for the disadvantageous effects of the formula approach (Curtis and Vastine 1971, 85-86; Kock 1969, 103-105).

Notwithstanding that the EEC faced a large opposition favoring a linear cut, it continued to insist on a harmonizing formula. It first proposed a 30/10 rule as a specific manifestation of écrêtement. The figure 30/10 means that a duty is cut more than a lower tariff if the larger duty is above 30 percent and more than 10 percentage points larger than the tariff in another country. The United States countered this proposal by suggesting three qualifications of the formula that strongly limited the number of items on which the rule could be invoked, in effect turning the 30/10 rule into a linear formula (Curtis and Vastine 1971, 84; Preeg 1970, 66-67).

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149 Switzerland and the export of watches to the EEC is an example for such a third country problem at the Kennedy Round (Preeg 1970, 65).
The EEC countered this proposal with its *double écart* formula. Under this formula, the high rate is at least twice the low duty. In addition, there must be a gap of ten percentage points between the high and the low rate. The formula would not apply to semi-manufactures and the EEC offered to consult third countries on an item-by-item basis in order to solve the third country problem. The United States still leaned toward a linear cut, but was also prepared to apply *double écart* under certain conditions. More particularly, U.S. negotiators wanted to specify criteria deciding about the application of *double écart* that would be automatically applied. This means that the United States and EEC should formulate clear-cut rules that assign particular items to *double écart* or not, without any further negotiations between any two countries. The EEC in turn rejected this suggestion, since it wanted more flexibility in the application of *double écart*.

The United States and the EEC tried to resolve their disagreement at a high-level bilateral meeting in Washington in the beginning of March, 1963. Notwithstanding that the *double écart* proposal narrowed the gap between the two actors, no formal agreement could be reached about how to deal with disparities. The official opening of the Kennedy Round was scheduled for May 4 so that the United States and the EEC were running out of time to settle their dispute and agreed to disagree. There was an informal understanding that a reduction of 50 percent should be the guideline for the following trade negotiations. Yet, each country could decide how far it wanted to comply with this guideline and how to manage the disparity problem. There are three main reasons for why the preparatory negotiations could not be successfully settled. First, the negotiating countries recognized that they could not reconcile their conflicting interests in one formula approach. But the United States and the EEC did not want to put the whole Kennedy Round at risk because of the disparities issue. In addition, the negotiators did not want to refer this problem once more to the ministerial level, where the basis for the preparatory negotiations was laid about twelve months earlier in complicated inter-ministerial negotiations. Second, the United States and the EEC could foresee that disparities were probably not the most difficult issue to resolve during the Kennedy Round, so they intended not to spend too much time on this problem. Third, traditional item-by-item negotiations were unofficially replaced as the default mode for trade bargaining at the Kennedy Round. Nevertheless, bilateral item-by-item negotiations were a viable alternative for tariff negotiations that allowed the Contracting Parties to negotiate concessions in those cases where the informal formula cut was objected by one country, for example, by pointing to a disparities problem (Kock 1969, 105; Preeg 1970, 67-69).
The GATT ministerial meeting that finally set the stage for the Kennedy Round in May, 1963 put the compromise into words by declaring that tariff negotiations “shall be based upon a plan of substantial linear tariff reductions with a bare minimum of exceptions” (cited after Preeg 1970, 297. The degree of tariffs exempted from multilateral bargaining should be kept limited, but it was consented that some bilateral bargaining was necessary for sensitive items (Kaplan 1996, 77).

Tabling the Exception Lists
The Contracting Parties compiled their exemption lists after the preparatory discussions had been closed. This was the point were the linear cut unfolded its full potential. Under the old item-by-item approach, countries had to compose positive lists containing items that were offered for bargaining. Under a formula approach, countries have to compile a negative list with items that were exempted from the unofficially agreed-on automatic reduction. Instead of preventing a sensitive item from appearing on a positive list, negotiators must now put each item on their negative list that is subject to bilateral bargaining.

The United States initially offered almost all of its 6,000 items for a linear cut, meaning that it only made a few exceptions. This move must not be read as a bold step of the United States, since negotiators were allowed to add and drop items until the end of the Kennedy Round. Moreover, the U.S. administration held hearings only after the exception list had been tabled. The U.S. Tariff commission and the Trade Information Committee collected statements from more than 1,000 witnesses at the beginning of 1964 (Kaplan 1996, 78).

The plan of the negotiators at the Kennedy Round was to resolve the disparities problem once the exemption lists had been tabled instead of finding a formula solving the disparities problem at the abstract level (Evans 1971, 221). The approach taken by the Contracting Parties varied widely. The EEC had a comparatively long exception list. It combined the exceptions issued by all six EEC members, many of which intended not to decrease the Common External Tariff too much after the reduction of the internal tariffs that had already let to increased import-competition. The EFTA countries tabled few, if any exceptions. The list of the United States was in between. Three factors account for the comparatively shorter list of the United States. First, negotiators believed that substantial tariff cuts would not cause many problems because of the strength of the economy. Second, Contracting Parties agreed to phase in tariff reductions over a period
of five years. Import-competition for U.S. producers would only increase in small steps, making the adjustment to rising imports easier. Third, as was explained above, the United States had established an adjustment assistance program supporting those sectors and companies that would be harmed by substantial tariff cuts. The United States exempted items from the linear cut where domestic adjustment assistance could not sufficiently mitigate import-competition (Curtis and Vastine 1971, 87-89; Preeg 1970, 84-85).

The size of the list sent a signal to the other members about the general attitude of the country that composed the list. The longer the list, the less the country appeared to be interested in achieving deep liberalization. In combination with that, the extent of a list represented the bargaining strategy that was pursued. Long lists can be used strategically to obtain more concessions from other countries. A short list can be used in negotiations with the aim to shorten the exemptions lists of other countries by threatening that the own list will get longer if this is not done. After the compilation of the lists, the negotiators had to defend the lists in front of other Contracting Parties in a multilateral forum. The consultation of the other members did not lead to any change in the lists, since this was not the goal of discussion. But this procedure helped members clarify their own position, thereby laying the ground for subsequent bargaining (Hoda 2001, 47).

The Contracting Parties first tried to conduct the negotiations on the basis of bilateral item-by-item negotiations. It soon turned out that bargaining would not make much progress under this mode. Tariff reduction on particular items was often made conditional on liberalization by other actors that were not part of the bilateral bargain, meaning that the bargaining interests often did not match in bilateral settings. The traditional bargaining mode thus proved insufficient for bargaining about the exemption lists (Evans 1971, 225; Preeg 1970, 89). However, a closer inspection of the exception lists showed that most of the items could be assigned to five sectors: steel, aluminum, chemicals, pulp and paper, and cotton and textiles. This finding led to the creation of five sectoral groups. The few exempted items that were not be covered by one of the sectoral groups were negotiated bilaterally among the countries concerned. All actors with major trade interests were members of the group. Their objective was to find a sec-

\[150\] Since the agricultural sector had been exempted from the formula approach at the outset, bargaining was also bilateral in the agricultural negotiations (Kaplan 1996, 82).
toral agreement that approached the goal of a 50 percent reduction as much as possible (Preeg 1970, 90).

The prime goal of the groups was not to find a sectoral agreement, since they believed that this might be too difficult. The problem is that within a particular sector countries are most often either exporters or importers. In this instance, it is difficult, if not impossible, to achieve intra-sectoral reciprocity because there is no scope for the exchange of concessions. Accordingly, there is more room for agreement when each country is both an exporter and an importer (Preeg 1970, 89). Many negotiators striving for substantial liberalization were anxious that the pursuit of sectoral reciprocity would dilute the 50 percent goal, so a 50 percent cut was particularly at the focus of the sectoral talks. The way this goal was achieved, intra-sectorally or cross-sectorally, was secondary. The sectoral bargaining approach was the middle-road between bilateral item-by-item negotiations and an across-the-board cut that failed to achieve liberalization before (Evans 1971, 316). It is more comprehensive than bilateral item-by-item bargaining, since an across-the-board cut is generally possible within a particular sector. At the same time, it is more limited than a general formula cut, since it is confined to one sector. An in-depth discussion of the sectoral developments cannot be given here, but can be found in Evans (1971) and Preeg (1970) who give detailed treatments of the Kennedy Round. I limit the discussion here to the points that are of interests with respect to my research question.

The Formation of Sectoral Groups

Sectoral bargaining was only partially successful in improving the bargaining situation, since it again turned out that interests were too dispersed across the five sectors in order to come to an agreement on the basis of the 50 percent formula. As a consequence of that, the form of negotiation varied across the five sectors, whereas bilateral bargaining played an essential role in finding agreements in each sector (Curzon and Curzon 1976, 181).

In the steel group, the prospects for tariff reductions seemed to be comparatively good, since most of the countries were exporters and importers of steel. However, the negotiations dragged on for some time and could only be settled toward the end of the Kennedy Round by finally agreeing on an approach that nearly harmonized steel tariffs.

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151 At the Tokyo Round, the United States tried to achieve a level playing field for specific sectors, e.g., by harmonizing the tariff on a certain item. These attempts failed at the Tokyo Round as well (Jackson et al. 1984, 158).
The harmonization of tariffs was somewhat peculiar because the new tariff diverged across items. This means that the harmonized tariff on one type of steel (there were 115 different types in total) differed from the new tariff on a different type (Curtis and Vastine 1971, 142). The United States had to make somewhat larger average cuts than the EEC, but the EEC agreed to bind the tariffs that were unbound until then and adopted a common external tariff. Both issues were demanded by the United States and helped to apply a harmonization formula, which had been rejected by the United States in the preparatory negotiations (Curtis and Vastine 1971, 127-144; Evans 1971, 225-227; Preeg 1970, 103-106).

The negotiations on chemicals were comparatively difficult because of the American Selling Price (ASP). The ASP was a customs valuation procedure of the United States that often produced high duties and made it nearly impossible to anticipate the tariffs on U.S. imports in advance. Exporters to the United States demanded the elimination of the ASP. In addition, there were substantial tariff disparities between the United States and the United Kingdom on the one hand and the EEC on the other hand. As a consequence of that, the exception lists were rather long in this sector. In the end, the deadlock could be resolved by a kind of tailor-made agreement. The United States, the EEC and the United Kingdom reduced their tariffs at different rates in the range of 33 to more than 50 percent. In addition, the deal involved concessions on U.S. non-tariff barriers that concerned importers (Evans 1971, 227-229; Preeg 1970, 108-110).

The major line of disagreement in the pulp and paper group was between the EEC and the Nordic countries. However, the United States was interested in benefiting from tariff cuts by the EEC, since this would also have exporters in the United States. In particular, the EEC argued that the Nordic states would keep the pulp price artificially high, which put paper producers in the EEC in a disadvantageous position vis-à-vis producers from other countries. This was the reason why the EEC cannot offer any tariff reduction to other countries among which the United States had the greatest export interests. The disagreement between the EEC and the Nordic countries would eventually be settled bilaterally toward the end of the Kennedy Round. On the basis of this deal, the other members of the pulp and paper group were able to exchange concessions in bilateral negotiations that were subject to unconditional MFN treatment (Curtis and Vastine 1971, 191-201; Evans 1971, 229-230; Preeg 1970, 97-98).

The chances for exemplary negotiations achieving the maximum degree of liberalization seemed to be good at the outset in the aluminum group. The aluminum indus-
try was marked by a high degree of intra-industry trade, which meant that the big aluminum companies, among them the American producers, had an interest in removing aluminum tariffs. However, the EEC, and France in particular, was reluctant to join the other countries in ambitious tariff cuts in an attempt to protect their domestic producers from import-competition. The final outcome was a combination of bindings of previously unbound European aluminum tariffs and bilaterally negotiated tariff cuts that diverged across countries, meaning that no formula approach was taken (Curtis and Vastine 1971, 187-191; Curzon and Curzon 1976, 188-192; Evans 1971, 232-234; Preeg 1970, 99-104).

The cotton and textiles group renegotiated the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles (LTA). The LTA regulated cotton textiles exports from the developing countries to industrialized countries. In effect, the LTA kept trade in cotton and textiles outside of the GATT framework, since this enabled the industrialized countries to keep the protection of uncompetitive domestic producers high. Although the developing countries were increasingly discontented with this situation, the LTA was renewed and the industrialized countries somewhat increased their imports. The LTA provided the multilateral framework for bilateral bargains in which exporters and importers negotiated bilaterally import quotas (Curtis and Vastine 1971, 161-178; Evans 1971, 230-232; Preeg 1970, 106-108).

The negotiations in the sectoral groups were difficult and protracted. On the side of the United States, the tough bargaining position was to a great degree attributable to the rising pressure coming from Congress and strong economic actors. The domestic politics working in the background of the Kennedy Round forced the U.S. negotiators to seek a balanced deal at the bargaining table (Kaplan 1996, 81-83). The mood in Congress in 1967 can be summarized in the words of Everett Dirksen, leader of the Republicans in the Senate. He lamented that “a number of basic industries have suffered grievously under unwise ‘liberalized’ customs and tariff practices and ineptly administered trade agreements legislation. Foreign-produced goods have prospered in out markets. But foreign markets have not reciprocally responded to our products of America’s mines, farms, forests and industry”. He further noted “sweeping across-the-board reductions in duty being pursued by the United States in the Kennedy Round could have an even worse effect on the trade position of the United States in future years” (cited after Eckes 1995, 192-193). The Democrats held a similar position on how to administer the TEA (Eckes 1995, 193).
The Final Stage of the Negotiations

It was not until the end of the Kennedy Round that most of the bargaining stalemates could be resolved. The expiration date of the U.S. Trade Expansion Act marked the end of the Kennedy Round, because after the expiration of the act the U.S. negotiators would not have been allowed to make any concessions. This meant that the Kennedy Round had to be concluded by June 30, 1967. The negotiators of all countries showed little willingness to compromise until the very end of the round. The final package had to be settled under great stress, whereas bilateral negotiations played a crucial role in this stage (Curtis and Vastine 1971, 92). Because they were running short of time, many countries made concessions without really knowing whether the concessions that were received and granted established reciprocity. On May 15, the Director General of the GATT declared that an agreement was reached (the time between May 15 and June 30 was needed to draft the official documents concluding the round).

The U.S. Special Representative for Trade, William Roth, believed that “although we cannot achieve exact reciprocity with each country – especially Japan – overall we could have to expect a balanced package” (cited after Eckes 1995, 195). This did not mean that the U.S. executive was fully satisfied with the results. In particular, it was dissatisfied with the uncompromising position of the EEC on agriculture, which inhibited any substantial steps toward agricultural liberalization and was sought by the export-oriented agricultural sector. Failure of the Kennedy Round, however, was considered even worse by the executive, since it expected to spur a trade war in which the United States had more to lose than to gain (Eckes 1995, 195-196). The Congress and domestic interest groups came to a worse assessment of the Kennedy Round results. The government did not find broad support by powerful economic actors and Congress since the latter lamented that the U.S. negotiators had failed to take care of the interests of domestic producers (Eckes 1995, 199-200).

As a consequence of that, the United States decided to renounce some of the concessions that were previously granted in order to achieve balances with respect to each of the participating countries (Curtis and Vastine 1971, 227; Eckes 1995, 201). This move unraveled the whole package the Contracting Parties had agreed on on May 15. Other countries, which only made some of their concessions conditional on these U.S. concessions, in turn withdrew of some their concessions, which in turn led to a response by other countries. In the end, an intervention by Director General of the GATT was necessary to stop this process and to reestablish an agreement (Evans 1971, 273-276).
Congress had to accept the bargaining outcome, since the TEA authorized the executive to conclude an agreement without Congressional approval. The protectionist sentiment, however, increased due to the Kennedy agreement, which many deemed to provide too few benefits for U.S. producers, and the worsening macroeconomic conditions. As it later turned out, the Kennedy Round agreement was the last GATT agreement Congress did not ratify, because the latter again obtained the right of ratification in the 1970s (Eckes 1995, 209-210; Kaplan 1996, 85).

Conclusion
The analysis of the Kennedy Round served to test for the determinants of a mixed form of cooperation and a mixed bargaining approach. Regarding the former, it could be shown in the analysis of U.S. domestic politics that concerns about transaction costs were the key driving force behind the switch to a formula approach. The United States experienced in the Dillon Round how difficult it was to negotiate with the EEC on the ground of an item-by-item approach. The literature on the bargaining behavior of the EEC strongly indicates that its bargaining behavior was motivated by concerns about the domestic distributional effects of tariff harmonization within the EEC and tariff cuts in the GATT. President Kennedy also identified an item-by-item approach as a major obstacle to ambitious liberalization because of easy opportunities for economic actors to influence trade negotiations in their favor. This observation was probably not only based on the experiences made with the EEC during the Dillon Round, but also on their own history of almost 30 years of item-by-item negotiations. I conclude that my hypothesis on the choice of formula approaches is corroborated by the Kennedy Round.

The dispute between the EEC and the United States about the type of formula to be applied is in accord with my model as well. The EEC, as the entity with an even tariff dispersion, favored a harmonization approach that would close the tariff gap on average. In contrast, the United States, with its dispersed tariffs, sought a linear cut. Both institutional preferences correspond to my hypotheses. While I do not have direct evidence on the underlying reasons, the independent evidence on the salience of domestic distribution in the EEC and the United States suggests that the choice of bargaining approaches was driven by these concerns.

It could be further seen that a formula approach and multilateral bargaining are incompatible with the pursuit of distributional concerns. This became particularly manifest in the third-country problem that came up during the formula negotiations. The
third-country problem highlights the difficulties of accommodating the interests of multiple actors in one formula. Moreover, the widespread return to item-by-item negotiations in the later part of the Kennedy Round shows that a formula approach is fundamentally incompatible with the pursuit of distributional goals.

The discussion in the run-up to the Kennedy Round exclusively focused on the bargaining approach. There is no hint at an explicit discussion of the form of cooperation. However, I explained in section 2.4 that the choice of item-by-item bargaining strongly biases cooperation toward bilateralism, and that a formula approach is most likely to be applied in multilateral bargaining. The available evidence supports this argument. The Contracting Parties negotiated multilaterally about a formula in the preparatory meetings as well as in the sectoral groups. When agreement on a formula failed and an item-by-item approach was taken, the negotiations almost automatically switched from bilateralism to multilateralism. This finding confirms my argument on the link between the bargaining approach and the form of cooperation. For this reason, I conclude that my hypotheses on the determinants of bilateral and multilateral bargaining receive empirical support too.

Furthermore, the hypothesis on the feasibility of simultaneous MFN bilateralism and multilateral bargaining is confirmed. I argue that sequential MFN bilateralism allows a country to control the enforcement problem of bilateral cooperation, but it does not solve it. The transaction costs of bilateral bargaining remain high and limit the applicability of sequential MFN bilateralism to small-n settings. With an increasing number of countries and items to negotiate about, multilateral bargaining becomes more and more attractive because of its potential to decrease transaction costs. The number of Contracting Parties increased continuously from 1947 to the early 1960s. The scope of the GATT expanded alongside with rising membership. There is evidence that these two trends contributed to the decision to bargain multilaterally. A similar conclusion can be drawn with respect to the decision between simultaneous item-by-item bargaining and a formula approach. All in all, the hypotheses on the effect of an increasing number of countries are empirically corroborated.

The empirical evidence also points to the inherent incompatibility of concerns about distribution and enforcement, which creates a dilemma in institutional choice. On the one hand, there was a clear desire to reduce the transaction costs of bargaining. This objective led to the introduction of multilateral bargaining and a formula approach. On the other hand, it quickly became apparent at the Kennedy Round negotiations that dis-
6. The World Trade Regime after World War II

Distributational concerns still figured prominently for most of the participating countries. The dispute about the type of formula to apply, the third-country problem, and the extent of exemptions for the handling of tariff disparities are three manifestations of the salience of distribution. In addition, it could be seen that the coverage of bilateral item-by-item bargaining turned out to be much broader than originally intended by the Contracting Parties. The important negotiations relied on bilateral item-by-item bargaining, except for the steel group, where multilateralism was combined with the item-by-item approach. The relatively big weight bilateralism and item-by-item negotiations received throughout the Kennedy Round exemplifies that concerns about distribution remained vital. Moreover, this is strong evidence for my argument that it is rather difficult to accommodate the countervailing incentives of concerns about distribution and enforcement/transaction costs for institutional choice.

This finding receives further support from the conferral of domestic adjustment assistance for U.S. producers. It could be shown that the invention of side payments was largely politically motivated in order to appease the domestic producers that were formerly sheltered from import-competition through selective liberalization. The fact that the item-by-item approach served this purpose is reflected in the critics’ statement that bilateral item-by-item bargaining allows better control over the domestic effects of liberalization than a multilateral formula approach and adjustment assistance. There is evidence that the situation was essentially the same when the members of the EEC removed their internal barriers to trade. I have further mentioned that the distributional goals of the EEC members were one major reason that rendered item-by-item bargaining infeasible at the Kennedy Round. This finding, in combination with the fact that EEC-internal liberalization was accompanied by national domestic adjustment programs, suggests that the members of the EEC pursued their distributional goals in the same way the United States did since the 1960s.

The competing explanations do not do as well as my domestic distributational model in explaining institutional choice. The report on the Foreign Economic Policy for the 1960s of the Joint Economic Committee of Congress (1962) and Kennedy’s speech before Congress clearly show that a couple of factors contributed to the decision to hold a new GATT round. The intention to strengthen the ties with the NATO members can be subsumed under the security approach, and the desire to improve the U.S. balance of payments evidently falls under the balance-of-payments approach. There is, however, no evidence that institutional choice was influenced by concerns about security or the
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balance of payments. First of all, the introduction of domestic adjustment assistance in the United States and in the EEC countries can only be explained on the grounds of my model. If security or the balance of payments mattered for political actors, there would not have been any need to provide adjustment assistance. Moreover, evidence from inside the U.S. administration shows that the application of domestic adjustment assistance was politically motivated. The bargaining behavior at the Kennedy Round also does not conform to expectations one can derive from the security and the balance-of-payments approach. Regarding the latter, one would expect that the institutional choice and the bargaining behavior depend on the balance of payments, e.g., countries with a negative balance behave differently than a country with a positive balance. No such difference can be observed. The security-approach cannot explain why one observes so much haggling between countries that belong to the same military alliance and that faced a massive external threat in the form of the Soviet Union. Neo-Realists might argue that security concerns also matter within alliances (cf., Grieco 1990), but the available evidence does not in any way indicate that institutional choice was driven by security concerns. I conclude that my domestic distributional model explains well the institutional choice at the Kennedy Round and strongly outperforms the competing approaches.

6.3. Government Procurement at the Uruguay Round

The Prelude to the Tokyo Round

Negotiations on the liberalization of government procurement were held for the first time at the Tokyo Round, i.e., almost 25 years after the foundation of the GATT. However, government procurement had been already an issue in the negotiations on the General Agreement in the mid-1940s. The question was whether government procurement would be made subject to the stipulations of the General Agreement. The United States wanted to subsume government procurement under the General Agreement, while a group of major trading countries aimed to keep procurement outside of the GATT. The latter position prevailed in the negotiations and it was stipulated in Art. III par. 8 of the General Agreement that “The provisions of this Article shall not apply to laws, regulations or requirements governing the procurement by governmental agencies of products purchased for governmental purposes”. Art. III dealt with national treatment, meaning that the public agencies of the Contracting Parties were free to discriminate between domestic and foreign producers. MFN treatment was subject to Art. I of
the General Agreement, so that it was unclear for some time whether government procurement should be marked by non-discrimination between foreign producers. The majority opinion among the Contracting Parties and lawyers held that government procurement was exempted from MFN treatment too, so that two central pillars of the GATT did not apply (Arrowsmith 2003a, 61-68; Jackson 1969, 291).

In the early 1960s, the dissatisfaction with discrimination in foreign procurement practices increased and gave rise to multilateral discussions in the Organization for Economic Cooperation and Development (OECD). In particular, the United States was criticized for the Buy American Act that dated back to 1933. In the face of the Great Depression, the United States introduced the Buy American Act in order acquire an additional instrument with which domestic producers could be sheltered from foreign competition. Depending on the commodity in question, the Buy American Act stipulated that the price offered by foreign producers needed to be below the prices of domestic producers by a certain rate in order to be accepted by a public agency (Pomeranz 1979, 1268-1270). The complaints about the government procurement practices of the United States opened a discussion about the practices of all OECD members. A general review of procurement policies in OECD countries highlighted that formal and informal discrimination against foreign suppliers was the rule.\textsuperscript{152} On the basis of this insight, the OECD members agreed that government procurement markets should be liberalized and discrimination restricted.\textsuperscript{153}

The negotiations on a multilateral agreement on government procurement (GPA) were time-consuming and could not be concluded in the 1960s. Three issues showed themselves to be particularly difficult in the negotiations. First, adherence to the principles of MFN treatment and national treatment alone were considered insufficient to liberalize procurement markets. If domestic producers should be able to compete in foreign markets, they should be informed about forthcoming and pending offers by foreign public agencies. A transparency mechanism that eliminated the information asymmetry between domestic and foreign suppliers was mandatory. Second, differences in the economic and political systems made it difficult to agree on a negotiation procedure that would create reciprocity in the exchange of concessions. In the realm of government procurement, making a concession means to allow foreign suppliers to submit a bid in a

\textsuperscript{152} See Anthony and Hagerty (1979, 1304-1309) for a discussion of discriminatory procurement practices in a handful of developed countries.

\textsuperscript{153} See Pomeranz (1979, 1273-1275) for cooperation on government procurement in the EFTA and the EEC.
specific sector, e.g., transport. One problem was that an agreement would only include entities that were located on the federal level because the central governments of federal states had less to offer than their counterparts in unitary states. Furthermore, the size of the public sector of the OECD members varied substantially. Third, liberalization of domestic government procurement practices was a domestically sensitive issue, so the involved countries insisted on reciprocal bargaining on market access. Moreover, the conferral of MFN treatment to non-subscribers to the agreement was considered infeasible because of the domestic sensitivity of increased foreign competition in government procurement. (Pomeranz 1979, 1272-1279; Reich 1999, 107). These problems proved to be too difficult to resolve until the start of the Tokyo Round in 1973 that finally produced an agreement on government procurement (GPA). The negotiations and the outcome will be discussed after having detailed the domestic political preparations of the United States for the Tokyo Round.

Preparing for the Tokyo Round: The Trade Act of 1974
The economic conditions and the general mood in Congress were more unfavorable than ever since 1934 for a new ambitious GATT round. President Richard Nixon decided to devalue the dollar in 1971, because of which the Bretton Woods system ceased to exist. Moreover, Nixon demanded that foreign countries appreciate their currencies and imposed an import tax of ten percent that would remain in place until the other countries acted accordingly. These decisions were motivated by the belief that unfavorable exchange rates had spurred imports into the United States too much and had disadvantaged U.S. exporters. This belief was fed by decreasing trade surpluses in the 1960s. The worsening economic conditions met with increasing demand for protectionism by a wide range of domestic industries. Several protective bills were discussed in Congress as a response to this development in the late 1960s and early 1970s, but none of them became actual law. The steps taken by the Nixon administration witnessed some success in 1973 and 1974, which were the years in which the Congress decided about the bargaining authority of the government at the Tokyo Round. Thus, the situation was somewhat more favorable for the discussion of a new trade act than one would have expected in the early 1970s (Destler 2005, 41-44).

The Congress had to agree on a new authority because the Trade Expansion Act of 1962 had expired in June 30, 1967. It was clear that NTBs would play a central part in the Tokyo Round so that the government needed a mandate to negotiate about rules.
The drafting of the new bargaining authority was inspired by the experiences of Congress and the government after the Kennedy Round. At this GATT round, the U.S. administration had made two non-tariff commitments by eliminating the American Selling Price and negotiating an Antidumping Code. The Congress had claimed that the government had exceeded its mandate because the Trade Expansion Act had limited the bargaining authority to the negotiation of tariffs. The two non-tariff commitments had created a serious conflict between Congress and the government as well as with foreign governments that had trusted in the U.S. government’s ability to implement the two concessions. In the end, the Congress refused the elimination of the American Selling Price and agreed to the Antidumping Code, provided that domestic trade law would prevail if the two stood in conflict with each other (which happened frequently) (Destler 2005, 71-72; Jackson 1984, 146; Kaplan 1996, 84-85).

The general problem with the negotiation of GATT agreements on NTBs was that they required the adaptation of domestic law, what has been the prerogative of Congress. Because of this, the Congress insisted on the right to approve all agreements the government will negotiate at the GATT round. On the other hand, the government argued that it must be able to make the credible commitments in relation to its bargaining partners that it will implement the agreement. The need for approval by Congress would make it impossible to give such a promise in the GATT negotiations. This constellation actually resembled the situation that existed in 1934, when the government wanted to obtain tariff-making and treaty-making authority from Congress.

From the perspective of the government, the compromise found in 1974 was less far-reaching than the provisions of the RTAA in 1934. The Trade Act of 1974 invented the fast-track authority in section 102 that enabled the government to negotiate NTBs. The government had to submit the bill regulating the implementation of the international agreements to the House and the Senate for approval. This procedure meant that the Congress was again formally involved in the conclusion of trade agreements for the first time since 1934. However, the scope of action of the Congress was limited. The bill could not be modified, there were no discussions in the committees of the House and Senate, and the time for discussion on the floor of the House and the Senate was restricted to 90 days. Because of these restrictions on the room of maneuver of the Congress, the U.S. administration felt that the Trade Act would assign its negotiators with sufficient bargaining power at the GATT round. Another important stipulation of the Trade Act was contained in section 101, which granted the president the right to negoti-
ate tariff reductions on the basis of a provision that was similar to the one that had been part of the RTAA in 1934.

However, shortly before the end of the Tokyo Round in 1978, the Senate suddenly requested a stronger role in the implementation of the GATT agreements on NTBs. In particular, the Senate demanded a stronger role in the drafting of the implementing legislation, which had been the sole responsibility of the U.S. administration according to the Trade Act of 1974. On the basis of the revised procedure, the president would only submit the bill for approval after the appropriate committees had prepared the bill jointly with the members of the administration. The incumbent STR Richard Strauss was at first reluctant to assign the Senate a stronger role than originally planned, but finally agreed to the procedural change, which was then adopted by the House as well (Destler 2005, 72-74; Jackson et al. 1984, 147-151).

I have mentioned in the discussion of the Kennedy Round that the Trade Expansion Act of 1962 accounted for some changes in the organization of the trade negotiations. A Special Representative of Trade (STR) was installed who was directly responsible to the president and who took over the responsibility for trade relations from the State Department. Moreover, Congress appointed four of its members as delegates of the U.S. negotiating team in order to keep the House and the Senate up-to-date about the process of the Kennedy Round. The Congress insisted on these changes in the traditional organization of the trade program because of dissatisfaction about the State Department’s course of action. The goal was to be better informed about the state of the negotiations and to make their own constituency’s interests heard. However, the organizational reforms largely failed to achieve their goal because Congress and domestic interest groups remained dissatisfied about their involvement during the Kennedy Round.

As a consequence of that, the Trade Act of 1974 provided for further modifications of the organization of external commercial relations. Besides some minor changes that were related to the STR, the Congress invented a sophisticated system of advisory committees. The top committee was the Advisory Committee for Trade Negotiations. It was chaired by the STR and would give policy advice to the STR and his negotiation team. The overall Advisory Committee was supplemented by three policy advisory committees dealing with issues related to labor, industry, and agriculture. Moreover, the president was authorized to install Industry Sector Advisory Committees (ISACs), 27 of which were created in order to give policy advice on specific sectors. The members of the committees were exclusively representatives of domestic economic actors. The STR
and his team were required to keep the committees informed on a regular basis about the progress of the Tokyo Round and in turn received advice on how to perform the negotiations that lay ahead. As a matter of fact, the U.S. administration and the advisory committees worked together smoothly so that their invention was largely successful. The protocol that had regulated the preparation of the bargaining strategy since the RTAA was not affected by the new system of advisory committees (Jackson et al. 1984, 151-155).

The Government Procurement Negotiations at the Tokyo Round

The Tokyo Round was the first round that dealt with NTBs on a broad basis. The NTB agreements that resulted from the negotiation in this group are also commonly referred to as Codes in order to signify that not all Contracting Parties became a party to the agreements. The Tokyo Round started in 1973, but government procurement was not put on the agenda until 1976, when a sub-group on government procurement was established as a division within the special negotiation group on NTBs. Advanced developed countries gave the major impetus for the creation of the sub-group because they expected that the liberalization of government procurement would promote foreign trade (Reich 1999, 108-109).

The negotiations on the new GPA had to deal with multiple issues that can be subsumed under the rubric of rules. Starting with the scope of the GPA, it was restricted to the procurement of goods by federal agencies. This stipulation implied two things. First, services were only subject to the agreement if they were related to the purchase of goods and did not exceed the goods in value. Second, all public agencies located at the sub-national level and state-owned corporations were not subsumed under the GPA. The scope of the GPA was further limited to procurement contracts with a value of more than 150,000 Special Drawing Rights (SDR). This value was relatively high and exempted a large share of procurement contracts from the GPA. The U.S. negotiators failed to implement the lower threshold that was demanded by competitive U.S. producers that wanted to enter foreign procurement markets. Furthermore, procurement of

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154 The Trade Act of 1974 renamed the Tariff Commission into International Trade Commission (ITC), but provided for the same extensive procedure governing the specification of a list of offers and requests as had been the case since 1934.

155 Special Drawing Rights were invented by the IMF and represent a unit of account for international reserve assets (Pomeranz 1979, 1289). At that time, 150,000 SDR were approximately equivalent to 190,000 USD.
goods that were relevant for national security was not covered by the GPA (Anthony and Hagerty 1979, 1319-1323; Bourgeois 1982, 12-16; Reich 1999, 112-115).

Furthermore, the GPA called for national treatment that required the introduction of transparency provisions enabling foreign suppliers to compete with domestic producers on equal ground. There was some conflict about how and how much transparency should be achieved. Countries that were strongly interested in liberalization, among them the United States, pushed for broad and effective transparency rules. On the other hand, there were countries that did not want to change their little transparent rules much because they had benefited domestic producers in the past. The negotiating countries agreed on an elaborate body of stipulations ensuring that foreign suppliers receive a minimum amount of information about future and pending public offers. Moreover, the GPA specified three tendering procedures among which public agencies could choose. Open tenders do not limit the number of suppliers that are allowed to submit offers. Selective tendering only invites offers of domestic and foreign suppliers that are part of the bidders’ lists of the public agency in question. Suppliers needed to qualify for inclusion in the list by meeting certain criteria. Finally, the GPA provided for single tendering that allows the public agency to consult a specific producer directly without making a public request for bids. All in all, the design of the tendering procedures granted public agencies some freedom of action in determining the kind of procedure to be applied (Pomeranz 1979, 1280-1285; Reich 1999, 116-125). Because of the domestic political saliency of liberalization in government procurement, there was consent that the subscribers to the GPA should be allowed to grant non-parties to the agreement conditional MFN treatment. The adherence to conditional MFN treatment made it necessary to introduce rules of origin to the government procurement sector in order to be able to discriminate between parties and non-parties to the agreement (Pomeranz 1979, 1276-1277).

The specification of the rules on government procurement represented one part of the bargain. The second part covered the negotiations about the public entities to which the GPA would apply.156 At the outset of the negotiations, the United States proposed to create a GPA with inclusive coverage, meaning that all parties to the agreement would apply it to all federal entities. It soon turned out that many countries considered this ap-

156 In the realm of government procurement, “public entity” refers to the agency that is in charge for procurement in a specific sector. For example, the U.S. Department for Transportation is the entity in charge for the transport sector.
proach infeasible, so they negotiated bilaterally about the inclusion of entities on an item-by-item basis. The negotiations were based on the understanding that a country’s offers should stand in reasonable relation to the size of the country’s procurement market. However, in practice all countries considered whether the entities offered by a foreign country were sufficient compared to their own list, so the bargaining mode resembled the one that was applied in the first five GATT rounds.\footnote{See Pomeranz (1979, 1290-1291) for the entities exempted by the United States.}

Each subscriber to the GPA enjoyed the right to postpone its application to any other subscriber at the time the agreement came into existence (this happened on January 1, 1981). The parties to the GPA were allowed to act accordingly if they deemed a list of entities of another country insufficient. A case in point for the application of this provision is the decision of the United States to exempt Japan from the GPA because of its short list of offers. This move of the United States gave the two countries the time to negotiate an improved list of Japanese offers so that the United States finally extended the GPA to suppliers from Japan (Glick 1984, 137-138; Pomeranz 1979, 1276, 1290-1293).\footnote{In a legal perspective, the Code was a supplement to the General Agreement. The more rigorous legal approach would have been to amend the Agreement by the Code. However, the legal requirements for amending the General Agreement were too high, since a two-thirds majority would have been needed. Even in that case, the stipulations on government procurement would only have applied to those countries that would explicitly accept them. The Contracting Parties decided for the less demanding procedure and framed the GPA as a Code that was supplemented to the General Agreement (Reich 1999, 109). John H. Jackson, one of the leading scholars on world trade law, argued that the Codes were nothing more than ordinary trade agreements and that their legal status in relation to the GATT was unclear (1997, 43, 76-77).} The coverage of the GPA in terms of countries subscribing to it was rather narrow. Ninety-nine countries participated at the Tokyo Round, but only 21 signed the GPA. By far most of the signatories were developed countries, although a group of developing countries had given the impetus for the inclusion of government procurement in the Tokyo Round (Anthony and Hagerty 1979, 1310).

**Implementation of the GPA in the United States**

When the Tokyo Round came to an end in early 1979, the president informed Congress about the negotiated agreements NTBs.\footnote{See Jackson (1984, 162-168) for a general treatment of the details of the fast-track procedure.} The general mood in Congress was not favorable for the approval of the Tokyo Round outcomes because the United States had experienced a historic trade deficit in 1978. Because of the deficit and the other economic problems the United States had to deal with in the 1970s, the members of Congress were more inclined to protectionism than further liberalization (Glick 1984, 128-129).
As I have mentioned above, the fast-track authority assigned the Congress the right of approving the bill regulating the implementation of the NTB agreements negotiated at the Tokyo Round. The historical record indicates that the requirement of Congressional support influenced the bargaining behavior of the U.S. negotiators. The ISACs provided the negotiators with the information about the goals the U.S. negotiators should try to achieve at the Tokyo Round. This procedure provided the negotiators with a rough idea of what concessions were necessary to achieve or avoid in order to assure that the implementing legislation will pass Congress. The effect of the strong role of the Congress and private economic actors was that the United States negotiated a couple of special deals at the Tokyo Round that probably would not have been struck if the negotiators had been more insulated from Congress and private lobbying.

The above-mentioned procedural change of 1978 ensured further that the Congress played an important role in the preparation of the implementing bill. The consequences of Congressional involvement became apparent in the drafting of the provisions covering the implementation of the GPA. Many members of Congress lamented that small businesses had not been exempted from the GPA, so the agreement would have eliminated the small business preference that had been traditionally part of U.S. procurement law. The members of Congress argued that the GPA would inflict costs on small business in the United States, while large producers would reap the benefits of liberalized procurement markets abroad. The application of the GPA to small businesses put its approval in Congress at risk, which was reason why the U.S. government asked the other contracting parties to add an exemption for small businesses that was eventually approved (Destler 2005, 75-76; Jackson et al. 1984, 165-166).

Furthermore, the statements of the ISACs and the hearings held by Congress showed that domestic producers were concerned about the limited coverage of the GPA. There was broad dissatisfaction about the small number of parties to the GPA because producers from non-member countries competed in the U.S. procurement market on the basis of the Buy American Act. This meant that foreign producers could participate in U.S. tenders, yet on unequal ground because domestic suppliers and foreign suppliers of GPA member countries enjoyed a specific preference. On the other hand, U.S. suppliers still faced almost completely shut procurement markets in many countries that did not

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160 One implementing bill comprised all GATT agreements requiring changes in U.S. law.
become a party to the GPA. In this view, producers from the United States received less favorable conditions than suppliers from non-member countries.

This situation was even more severe for the sectors that had been largely or even completely exempted from the GPA. In this instance, U.S. suppliers of the sectors in question did not receive any benefits at all from the agreement simply because it didn’t apply. Representatives of these sectors particularly complained about the asymmetry between the domestic treatment of foreign suppliers and the treatment they received abroad. Several industries, e.g., heavy electrical equipment, communication, and transportation, considered the Buy American Act insufficient in the face of highly protected foreign markets. U.S. producers appealed the government to forbid the participation of foreign suppliers in specific sectors, if these sectors were not covered by the GPA, and to exclude foreign producers of non-subscribing countries from all U.S. procurement activities. After this had been done, the United States would seek bilateral agreements with other countries in order to achieve reciprocal access to foreign procurement sector (Pomeranz 1979, 1311-1314).

The Congress followed the requests of the domestic industries by framing the implementing legislation accordingly. First of all, it was decided that the GPA would only be applied to the suppliers of other GPA member countries. In addition, the Congress specified four different conditions under which producers from non-member countries would be eligible for application of the GPA. In effect, major industrial countries could only qualify for treatment as provided for in the GPA by becoming a member to the agreement. This provision was a response to the decision of some industrialized countries not to sign to the GPA. The three other conditions through which a country could qualify for GPA treatment were explicitly delimited to states that were not major industrialized states. The second condition provided for the unconditional extension of the GPA to least developed countries. The third condition effectively stipulated that a country should treat U.S. suppliers as if it were a party to the GPA. The fourth criteria stipulated that a country could become eligible for GPA treatment by the United States if it offered reciprocal competitive government procurement opportunities for U.S. suppliers, meaning that the foreign country did not have to follow the rules of the GPA.

The U.S. Congress accepted the inclusion of the fourth condition in the bill, but required the government to resort to it only in exceptional circumstances because of the aim to encourage as many countries as possible to subscribe to the GPA. Section 302 of the Trade Act of 1979 embodied another instrument with which the president should
induce other countries to subscribe to the GPA. Section 302 authorized the president to block any bids of suppliers of countries that did not sign the GPA. The explicit goal of section 302 was to “encourage additional countries to become parties to the Agreement and to provide appropriate reciprocal competitive government procurement opportunities to the United States produces and suppliers of such products.” (Hufbauer et al. 1980, 85-87).

The Congress finally approved the domestic implementation of the GPA along these lines, provided that the president found in an inquiry to be performed in 1980 that all major industrialized countries had become a party to the agreement and that they made a reasonable number of entities subject to the GPA. The U.S. administration conducted such an inquiry in 1980 and concluded that this condition was fulfilled so that the GPA could come into effect. Moreover, the president invoked section 302 and forbade all U.S. federal agencies to procure any products from countries that were not party to the GPA (Glick 1984, 66-67). This prohibition that applied to the federal level was accompanied by multiple complementary initiatives at the state level and local level (Glick 1984, 137-139). This development stood in conflict with the decision of the Contracting Parties of the GATT that the GPA should not create any disadvantages for those countries that did not sign it (Reich 1997, 144).

Moreover, Congress required the government to reorganize the parts of the administration that was in charge of the U.S. trade relations. Among many minor changes, the position of the STR was strengthened by centralizing most of the trade-related functions in his administrative division. A representative of the government declared that the goal of the reorganization was the “aggressive enforcement of the MTN Code” and to “improve our export promotion activities” (cited after Glick 1984, 131-132). At the end of this process, Congress passed the implementing bill with a broad majority, showing that strong participation of the Congress and private economic actors promoted the accommodation of their interests (Destler 2005, 74-75, 114-115).

**Preparing for the Uruguay Round: The Omnibus Trade and Competitiveness Act**

The 1980s were marked by much legislative activity of Congress in the realm of international trade. Numerous members of Congress tried to implement specific trade legislation that served their narrow constituency interests. Most of the bills did not become actual law, partly because of a lack of broad support in Congress, partly because of opposition by the U.S. administration and presidential vetoes. The reasons for this activity
were an ever-growing trade deficit, the perceived decline of the United States in relation to other major trading countries, e.g., Germany and Japan. As a consequence of these developments, domestic producers pushed strongly for more protectionism and exporters demanded a more aggressive trade policy that opened foreign markets. Because of this constellation, the time for drafting a new bargaining authority for a GATT round was less favorable than ever before since 1934 (Destler 2005, 88-90).

The government needed a new negotiating authority because the fast-track authority, which had been extended several times since the end of the Tokyo Round, would expire in January 1988, i.e., too soon to complete the Uruguay Round. The drafting of a trade bill gave the members of Congress the opportunity to attach specific provisions to the new legislation that failed to pass Congress in the previous years. The fact that the Congress was determined to take an active role in the legislative process became apparent in the decision to completely ignore the draft bill submitted by the administration and to draft an own bill instead. This was the first time since the RTAA that Congress did not take the government proposal as the basis for discussion.

The House draft and the Senate draft of the new trade bill were dissimilar in many details, but shared some key properties. Congress said that the president’s scope of action should be restricted so that the administration would have less opportunity not to invoke trade remedies, e.g., the escape clause. The fast-track provision should be tightened (in ways to be discussed below), and the government was mandated to impose retaliation against unfair foreign trade practices. These elements of the drafts provoked interventions by government officials that were concerned about the spirit of the bills and that tried to render their provisions less restrictive where possible.

The mood among the members of Congress changed to some degree when the Conference Committee worked on a compromise draft in autumn 1987. One factor behind this change in attitude was the crash of the Dow Jones. This event, which became known as Black Monday, strengthened the liberal sentiment in Congress because it was expected that a decisively protectionist trade bill would contribute to the stock crisis. Moreover, the U.S. trade deficit was declining in 1987. In the face of these developments, the Conference Committee compromise that was reached and finally enacted in 1988 was more liberal than one could expect a few months earlier.

However, the fact that the trade bill was approximately 450 pages long exemplifies that Congress was still determined to shape the course of the future trade policy (for comparison: the TEA of 1962 had 31 pages). Two important elements of the Omnibus
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Act were the revised fast-track procedure and the provisions that became known under section 301 and super 301. The fast-track provision was tightened in comparison with the Tokyo Round procedure. One important change was that Congress could decide to apply the normal legislative procedure instead of the fast-track. The suspension of the fast-track provision was possible if a majority in both houses of the Congress found that “the President has failed or refused to consult with Congress on trade negotiations and trade agreements in accordance with the provisions of the Omnibus Trade and Competitiveness Act of 1988” (section 1103(c)(1)(E)). This meant that the agreements negotiated at the Uruguay Round could be implemented even if the Congress were to invoke this provision. But the legislative process would take much longer than under fast-track because the standard protocol of the Congress would apply. Since part of fast-track was the provision that the trade agreement could be amended in Congress, the suspension of fast-track would open the door for changes in the agreements’ substance. This change in the fast-track rules tended to undermine the U.S. negotiators’ ability to give credible commitments in international trade negotiations. In order to prevent Congress from discarding fast-track, the administration had a strong incentive to keep Congress informed about the state of the negotiations, as was required in section 1103, what gave the members of Congress the opportunity to take influence during the negotiations already (Destler 2005, 94-95).

The second important reflection of the general mood in Congress was section 301 and super 301. Section 301 had been introduced with the Trade Act of 1974, but it did not play a major role in U.S. trade policy until it was considerably tightened in the Omnibus Act of 1988. It aimed at “unjustifiable and unreasonable” foreign trade practices, particularly those that inhibit U.S. exports. The Congress required the government to impose unilateral retaliatory action if the foreign practices in question could not be removed through negotiations. The provision as such was not that new an element of U.S. trade policy because similar provisions had been part of U.S. trade law since the McKinley Act of 1890 (cf., section 5.1). However, the Congress wanted the administration to target even those foreign practices that were allowed under GATT law. Moreover, unilateral retaliation stood in conflict with the GATT dispute settlement mechanism. In this view, section 301 was a rather aggressive instrument of export promotion (Bayard and Elliott 1992; Bhagwati 1990; Bhagwati and Patrick 1991). Under section 301, exporters from the United States had to file a case complaining about unfair foreign trade practices that would then be investigated. In contrast, Super 301 required the
United States Trade Representative (USTR) to identify until June, 1989 specific countries whose rules and regulations particularly impede U.S. exports. The USTR then had to enter into negotiations with these countries and to invoke retaliatory action if they refuse to improve their treatment of U.S. exports. The skillful handling of Super 301 by USTR Carla Hills prevented this provision from causing any serious damage in the trade relations between the United States in its trading partners (Destler 2005, 123-130).

In sum, the Omnibus Trade and Competitiveness Act of 1988 stands in the tradition of its predecessors in two respects: the government remained in control about U.S. trade policy, and it did not automatically lead to increased protectionism. Nonetheless, the administration’s room of maneuver was more limited than in previous trade rounds so that it had to pay more attention to the constituency interests of the members of Congress in the course of the Uruguay Round negotiations.

The Government Procurement Negotiations at the Uruguay Round
The shortcomings of the Tokyo Round GPA quickly became apparent in the 1980s because the liberalization of government procurement had fewer positive effects than originally expected. One reason for the agreement’s modest success was its limited coverage. Other reasons for disappointment were the high threshold and the extensive use of single tendering procedures. The parties to the GAP agreed on some minor changes in the GPA in 1987. Among other things, the threshold value was lowered from 150,000 SDR to 130,000 SDR and the transparency rules were somewhat tightened (Arrowsmith 2003a, 36-3, 107; Reich 1999, 133-140).

The Uruguay Round represented the next big opportunity to renegotiate the GPA.\textsuperscript{161} The talks started in 1988 and aimed to remedy the deficiencies of the Tokyo Round GPA that served as the basis for the renegotiations. The GPA is a particularly peculiar piece of trade agreement because it was the only one of seven Tokyo Round Codes that was not subsumed under the \textit{Single Undertaking}. The Single Undertaking is one key feature of the Uruguay Round and aimed to set an end to the increasing fragmentation of the world trading system, of which the Codes were one major source.\textsuperscript{162}

\textsuperscript{161} In a strictly legal perspective, the renegotiations of the GPA were not part of the Uruguay Round. In practice, the negotiations were considered to belong to the Uruguay Round negotiations (Reich 1997, 132-133).

\textsuperscript{162} The Tokyo Round had also produced three sectoral agreements covering the sectors of civil aircraft, dairies, and bovine meat. These agreements were not subsumed under the Single Undertaking because did only concern a few Contracting Parties (Reich 1999, 282).
procurement still represented an important instrument for protecting domestic producers from foreign suppliers. The inclusion of government procurement in the Single Undertaking would have made this much more difficult, which is the reason why there was widespread agreement among the subscribers to the GPA that it should not become a GATT agreement in the legal sense. One consequence of this decision was that the negotiations were conducted in the Committee on Government Procurement, which had been created after the Tokyo Round. This decision meant that only the current subscribers to the GPA had the right to participate in the negotiations. Non-members to the Tokyo Round GPA could apply for membership and participate in the negotiations only if they made sufficient concessions in the accession negotiations (Reich 1999, 279-283).

Starting with the negotiations on the rules contained in the GPA, the negotiating countries introduced a provision that enabled non-members to acquire semi-membership by adhering to certain minimum transparency provisions. If this requirement was fulfilled, the semi-member would have to bargain bilaterally with parties to the GPA about reciprocal market access (Arrowsmith 2003a, 96-97; Reich 1999, 283-284). The tendering procedures were only slightly changed because there was consensus that the revised Tokyo Round stipulations on transparency work sufficiently well. The potential coverage of the GPA was extended by including government procurement of services and procurement of sub-national entities and public enterprises in the GPA (Graaf and King 1995, 438-440; Reich 1999, 285-303).

To what extent such procurement activities would indeed be subsumed under the GPA was left for reciprocal bargaining. Similarly to the Tokyo Round, public procurement related to national security and issues of public interest, e.g., health protection, could be legitimately exempted from the negotiations (Arrowsmith 2003a, 143-150). With respect to bargaining on all other issues, the template for the Uruguay Round negotiations was the form of cooperation that was selected at the Tokyo Round, i.e., the negotiations were bilateral and held on an item-by-item basis. Moreover, MFN treatment did not apply automatically to the concessions that were exchanged in bilateral

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163 The renegotiations were inspired to some degree by a recent EC Directive on government procurement (Graaf and King 1995, 437).

164 The list approach that was taken varied from issue to issue and from country to country. For example, the negotiations on services were largely based on the negative list approach, i.e., all products that were not explicitly exempted were subsumed under the GPA. The positive list approach was the rule for the negotiations on procurement of products, meaning that countries expressly enumerated the services to which the GPA should apply. The choice of the approach did not seem to have a systematic influence on the GPAs coverage (Arrowsmith 2003a, 112; Graaf and King 1995, 137).
The World Trade Regime after World War II

6. The World Trade Regime after World War II

bargaining. \textsuperscript{165} Bargaining in the absence of MFN treatment tightened the bargaining mode in relation to the Tokyo Round. As I have explained above, parties to the GPA could refuse to apply the whole agreement to the suppliers of another party if the latter’s list of entities was deemed inappropriate. At the Uruguay Round, the contracting parties now had the chance to withhold specific concessions from foreign countries in the course of bargaining.

All countries made almost all procurement activities of federal agencies subject to the GPA. The situation was markedly different with respect to procurement of sub-national entities and state-owned enterprises. For example, the United States only allowed suppliers from Israel, South Korea, and the European Union (EU) to compete on equal ground with U.S. producers in procurement of sub-national entities and state-owned enterprises. Some derogations of MFN treatment were justified with domestic social and environmental programs that would have been difficult to maintain under non-discrimination. However, most of the exemptions lacked such a justification. A cursory analysis shows that countries particularly exempted those sectors that heavily depended on public contracts.

The bargaining mode on government procurement of services was even more restrictive than the one applied in the negotiations on goods. \textsuperscript{166} The exchange of concessions on services based on the notion of sectoral reciprocity. This meant that a country was only prepared to grant access to a specific sector if the bargaining partner opened the same sector for their own suppliers. For example, the United States stipulates in the general notes on the concessions on services, which were contained in Annex 4 of the GPA, that “A service listed in Annex 4 is covered with respect to a particular Party only to the extent that such Party has included that service in its Annex 4.” Other subscribers to the GPA made their concessions on the procurement of services conditional on similar provisions. (Arrowsmith 2003a, 140; Graaf and King 1995, 445-447; Reich 1997, 135-137).

The strong salience of concerns about reciprocity rendered the negotiations particularly difficult and time-consuming. The most important bilateral bargain in the GPA negotiations was the one between the United States and the EU. The prime goal of

\textsuperscript{165} It should be noted that the GPA contained a MFN provision in Art. III, par. 1. This provision does only apply to procurement that is covered by the GPA. This means that it is not a breach of the MFN principle, as framed in the GPA, to grant market access to some countries while withholding it from others. However, once two countries enjoy access to the same sector, it is prohibited to treat them unequally (Arrowsmith 2003a, 166).

\textsuperscript{166} Except for the rules I discussed above, the competitive conditions for foreign suppliers were not regulated in the GPA. These conditions, e.g., concerning the imposition of duties on services, were handled the General Agreement on Trade in Services (GATS) (cf., Arrowsmith 2003a, 78-82; Reich 1997, 138).
negotiations was the one between the United States and the EU. The prime goal of the United States was to get equal access to European electrical and telecommunications procurement. U.S. producers were competitive in these sectors, but they faced unfavorable conditions because the two sectors had been exempted from the Tokyo Round GPA. The United States threatened with sanctions if the electrical and telecommunications sector would not be subsumed under the new GPA. The European Union also wanted access to the electrical and telecommunications sectors in the United States and particularly demanded the abandonment of all discriminatory practices on the sub-national level.

The negotiations did not make much progress until 1993, when the United States and the EU signed a two-year Memorandum of Understanding (MoU). The MoU reflects the insight of both countries that their bargaining goals are difficult to reconcile and was struck on the basis of the understanding that a more ambitious agreement should be reached within two years. The MoU provided for the exchange of full access to each other’s federal procurement contracts, including procurement of electrics. No agreement could be reached on the inclusion of the telecommunications sector and sub-federal procurement. As a consequence of this failure, the United States imposed sanctions against EU bidders that were met by counterretaliation of the EU against suppliers from the United States (Graaf and King 1995, 442-445).

All the other bilateral negotiations had been paused until the conclusion of the MoU in order to assess the deal between the two big trading countries and to adjust their own bargaining strategy accordingly. Except for South Korea and Israel, all countries rejected the U.S. offers related to sub-national procurement and state-owned enterprises. The main problem for the U.S. negotiators was that they could not make binding offers without asking sub-national entities, e.g., state governments, to subsume their government activities under the GPA. This constellation made the negotiations protracted. The inability of the U.S. negotiators to make substantial concessions on sub-national entities was the reason why most of the other contracting parties withheld many concessions from the United States as well. All in all, the negotiations immediately following the MoU did not achieve much.

The United States and the EU resumed their negotiations on an improved MoU in early 1994. The basis for the bargain was laid by a report of an independent consultant that compared the current offers of the United States and the EU. The report found that the concessions on federal procurement were roughly equal in terms of the volume of
the contracts. However, the offers of the EU strongly exceeded the U.S. offers regarding procurement of sub-national entities and state-owned enterprises. The negotiations between the United States and the EU remained complicated and could only be settled at Marrakech, where the WTO agreement was signed in April, 1994. The United States improved its offers compared to the MoU and the EU downsized its concessions in order to achieve reciprocity in the so-called Marrakech Agreement. One reason why the negotiations were finally successful was the acceptance of cross-sectoral deals, meaning that the EU did not need to match the opening of one specific sector by the United States with liberalization of the same sector. However, sectoral reciprocity still figured prominently in the late stage of the EU-U.S. negotiations. Large parts of the Marrakech Agreement were included in the Annexes of the Uruguay Round GPA. Since the United States and the EU insisted on sectoral reciprocity, this did not mean that the other parties to the GPA could unconditionally benefit from subsuming the Marrakech Agreement under the GPA. The other countries just received the opportunity to receive the same concessions, provided that they included the corresponding sectors and entities in the GPA. Nonetheless, this was a good sign for the parties to the GPA because until then there were widespread concerns that the EU-U.S. deal would not become part of the GPA at all (Arrowsmith 2003a, 109-110; Graaf and King 1995, 448-450). The United States and the EU resumed their negotiations with other countries after they had signed the Marrakech Agreement. Both trading powers were able to conclude a couple of bilateral deals that did not substantially expand the GPA’s coverage, one reason for which was that some agreements were not included in the GPA (Arrowsmith 2003a, 107-108; Reich 1997, 137). The GPA formally took effect for all contracting parties on January 1, 1997. Notwithstanding the problems the parties to the GPA encountered in bargaining, the coverage of the Uruguay Round GPA was remarkably broader than the Tokyo Round GPA. The GPA members thus achieved one of their two major goals. The second goal, namely, the expansion of the GPA membership, could not be reached because there were only 23 countries that signed the agreement (Arrowsmith 2003a, 40).167

The absence of MFN treatment and the prevalence of sectoral reciprocity in procurement of services substantially limited the degree of liberalization that was achievable in principle. Moreover, the costs of administration increased substantially both for

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167 At first, only 21 countries signed the GPA (each member state of the EU counts as an individual party (Arrowsmith 2003a, 91-92)). Hong Kong and Singapore joined the GPA soon after it came into existence.
public agencies and producers that aimed to compete in foreign markets. Public agencies needed to determine the origin of the offered goods and services in question in order to know how the offer should be handled. The GPA did not provide for rules of origin, so each country had to resort to its own rules. The rules could differ for suppliers from different countries because different goods and services were traded on the basis of different arrangements that may provide for divergent rules of origin. The rules-of-origin problem and the complexity of concession-making in the GPA negotiations increased the administrative costs for suppliers as well. Suppliers needed to analyze the lists of entities and services very carefully in order to determine whether and under what conditions they might compete for foreign contracts (Arrowsmith 2003a, 88-89; Reich 1997, 139).

The Development after the Uruguay Round
The United States’ implementation of the Uruguay Round GPA resembled its implementation of Tokyo Round agreement. Public agencies of the United States were not allowed to accept any offer of suppliers from non-member countries to the GPA or countries that have signed another reciprocal agreement covering government procurement (Reich 1997, 140-141, 1999, 352).

With respect to the development of liberalization in government procurement, the GPA provided for new negotiations on the expansion of the coverage and the elimination of the derogations of MFN treatment within three years after its entry into force and periodically thereafter. All negotiations that took place after 1996 were bilateral and increased the GPA’s coverage to some degree. However, most of the exemptions from MFN treatment remained in place. The negotiations of accession to the GPA actually increased the number of derogations because both the existing parties and the acceding country generally exempted concessions from MFN treatment (Arrowsmith 2003a, 142).

The United States proposed an interim agreement on transparency in government procurement at the Singapore Ministerial Conference of the WTO in 1996. This proposal was based on the insight that it may prove too difficult to liberalize government procurement further on the basis of the GPA in the short and medium run. The agreement involves too many regulations that many countries, particular developing coun-

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168 Bilateral trade agreements frequently include government procurement. Moreover, a couple of bilateral treaties that specifically deal with government procurement were and still are negotiated outside of the framework of the GPA (Reich 1999, 346).
tries, do not want to subscribe to. An interim agreement would at least eliminate one of the key problems in government procurement, namely, the opacity of foreign procurement activities that makes it difficult to compete for public contracts abroad. The proposal was to agree on a minimum of standards on transparency in order to level the playing field to some degree at least. The negotiations on an interim agreement could not be settled by now, exemplifying the problems of achieving cooperation in the field of government procurement (Arrowsmith 1998, 2003b; Hoda and Bansal 2004; Reich 1999, 317-318).

**Conclusion**

I have selected the case of government procurement for analysis because it provides observations on the choice of bilateral and multilateral bargaining and the application of MFN treatment. There is unequivocal agreement in the literature that concerns about domestic distribution figure prominently in government procurement. Public procurement has traditionally been an instrument to shelter domestic producers from foreign competition and to award them public contracts. It could be further shown that the liberalization of government procurement can be explained with the demand of competitive domestic producers about protective and discriminatory devices abroad. Thus, there can be no doubt that cooperation on the liberalization of public procurement is characterized by concerns about domestic distribution.

My analysis of the domestic political processes in the United States shows specifically that concerns about domestic distribution played a central role. The general attitude of Congress toward liberalization was more skeptical than in the previous 40 years because of worsening economic conditions and increasing foreign competition for U.S. producers. It could be observed that the involvement of Congress and private economic actors in the Tokyo Round and the Uruguay Round was stronger than before. A sophisticated institutional structure of committees comprising private economic actors (the ISACs) was added to the institutions and procedures that had been installed after the RTAA (see section 5.2). The Congress became more involved in trade-policy making too, and limited the administration’s scope of action to pursue policies at the GATT rounds that run counter to the interests of domestic constituencies. In sum, it can be seen that the preparations for the Tokyo Round and the Uruguay Round prolongs the trend that started with the RTAA of 1934. The Congress and domestic economic actors were always more or less dissatisfied with the handling of the trade program by the govern-
ment. One can observe that Congress and private actors constantly increased their participation in trade-policy making and limited the government’s room of maneuver (cf., Destler 2005; Goldstein and Keohane 1993).

Turning now to institutional choice, I have delivered evidence showing that rule-making was marked by some distributive conflicts, e.g., about the size of the threshold value above with the GPA applies. This observation is not that surprising because it has been previously shown elsewhere that multilateral rule-setting is difficult in the face of distributional concerns (e.g., Rege 2002). What is more interesting for my study is the fact that countries were allowed to, and actually did, discriminate in rule-application between members and non-members to the GPA. The analysis of the decision-making of the United States has clearly shown that MFN treatment was withheld from non-parties to the GPA for protectionist reasons. Foreign suppliers from non-members could compete with domestic suppliers in the U.S. market on the grounds of the Buy American Act that granted domestic producers a moderate preference. On the other hand, suppliers from the United States often had no opportunity at all to compete in other markets because of protective rules regulating foreign government procurement. I have demonstrated that U.S. producers sought to bar any competition of suppliers from non-members. Congress and the government followed the suppliers’ requests and prohibited public agencies from accepting any bids from producers of non-subscribers to the GPA.

It is true the United States specified four conditions under which countries could qualify for GPA treatment without being a party to this treaty. But these conditions were rather restrictive so that it was almost impossible for non-member countries, except for least-developed countries, to receive favorable treatment of the United States. I have further shown that the OECD members agreed in the 1960s already that they should not be obliged to grant MFN treatment, so it seems that the other parties to the GPA withheld MFN treatment for the same reasons the United States did. In the light of this evidence, I conclude that my hypotheses on the application of MFN provisions are fully confirmed by the empirical evidence on rule-application.

With respect to MFN treatment and bargaining on concessions, it could be observed that discriminatory bargaining about access was more prevalent in the Uruguay Round than in the Tokyo Round. At the latter trade round, a subscriber to the agreement had the opportunity to deny the application of the complete GPA to any other party if it deemed the concessions of another country insufficient. As I have mentioned, the United States invoked this provision and negotiated with Japan about further conces-
sions in telecommunications procurement before applying the GPA to this country. In contrast, purely bilateral bargaining on reciprocal market access ruled at the Uruguay Round. Countries were only prepared to open a specific procurement sector if they received a concession in return. An extreme version of reciprocal bargaining was taken in procurement of services where countries insisted on sectoral reciprocity. Sectoral reciprocity embodies a stronger sense of concerns of distribution than ordinary bilateral bargaining because it is impossible to trade-off the interests of economic actors belonging to different sectors. It is plausible to assume that it is very difficult to achieve liberalization under sectoral reciprocity. The empirical record actually shows fact that sectoral bargaining produced little success at the Uruguay Round. I conclude that the empirical evidence on the absence of MFN treatment in bargaining about market access corroborates my corresponding hypotheses. It seems that the dominance of discriminatory and sectoral bargaining at the Uruguay Round was rooted in the broader coverage of the GPA. As I have mentioned, the Uruguay Round GPA also covered procurement of services, sub-national procurement, and procurement of state-owned enterprises. The fact that liberalization was extended to issues (services) and areas (sub-national level) that had been absent from any substantial GATT negotiations prior to the Uruguay Round may explain why bargaining was particularly restrictive in these instances.

I have argued in section 2.4 that the absence of MFN treatment should not necessarily be interpreted as the complete absence of liberalism in trade cooperation. Countries might seek protectionism in relation to third countries by abandoning MFN treatment, while at the same time liberalizing their trade policy by signing a bilateral agreement. The case of government procurement highlights that liberalization can be closely connected to protectionism (Reich 1999, 350). The subscribers to the GPA achieved some liberalization of public procurement alongside with the pursuit of discriminatory trade. I have shown that the subscribers to the GPA were prepared to carry the high administrative costs of discrimination because they needed to handle a complex system of rules of origin.

The fact that liberalization was achieved in the presence of discrimination seems to stand in contrast to my hypothesis that liberal countries apply MFN treatment. However, it should be noticed that the negotiations on government procurement were clustered. I have argued in section 2.4 that protectionist countries prefer clustering to MFN treatment as a means to manage the externalized enforcement problem that results from discriminatory bargaining. In this view, I think that the case of government procurement
confirms my model of institutional choice. It is of course true that simultaneous negotiations have been the rule in the GATT since its beginning, so it was nothing but straightforward that the government procurement negotiations would be clustered as well. Nonetheless, this argument does not invalidate my hypothesis that clustered negotiations allow protectionist countries to manage the externalized enforcement problem instead of resorting to MFN treatment.

The analysis of the Tokyo Round and Uruguay Round negotiations also confirms the hypotheses on the determinants of bilateral bargaining and item-by-item negotiations. I have shown that it was considered at the beginning of the Tokyo Round to subsume procurement of all federal agencies under the GPA, which would have been equivalent to applying an across-the-board approach. This plan was discarded because of the different procurement profiles of the participating countries. A unitary state with a large public sector would have included much more procurement activities in the GPA than a federal state with a small public sector. This was the reason why it was decided to bargain bilaterally on an item-by-item basis. A similar situation occurred at the Uruguay Round when the EU proposed to take a comprehensive approach toward procurement of sub-national entities and state-owned enterprises. Again, an across-the-board approach was refused by most countries and bilateral item-by-item bargaining was chosen instead. These observations strongly support my hypotheses that bargaining is marked by country-sensitivity and item-sensitivity that prompt actors to choose bilateral bargaining and an item-by-item approach respectively.

Neither of the competing approaches that I discussed in section 2.6 plays an important role in explaining institutional choice in the government procurement negotiations. It could be shown that concerns about domestic distribution were the major driving force in the preparations of the United States for the two trade rounds. Moreover, I have mentioned that procurement of security-related goods and services were exempted from the negotiations. Therefore, concerns about security can hardly explain why the GPA members did not choose an across-the-board approach to the liberalization of procurement in all other sectors. Balance-of-payments problems can neither account for the institutional choice in the government procurement negotiations. This conclusion holds for the United States as well as for other parties to the GPA that sought bilateral bargaining and discrimination independently of their actual balance of payments. In sum, I conclude that the case of the government procurement negotiations provides strong empirical support for my model of institutional choice.
6.4. Institutional Choice after World War II: Conclusion

International trade relations after World War II are generally characterized as an era of multilateral trade. This is undoubtedly true inasmuch as the GATT was a multilateral regime. However, I have shown in this chapter that the notion of a multilateral regime conceals that bargaining was exclusively bilaterally in the first five GATT rounds. Bilateral cooperation remained a central element even after the Contracting Parties had agreed to introduce elements of multilateralism in the Kennedy Round and the following trade rounds. This holds for the core area of the GATT, namely, tariffs on manufactured goods, as well as for other issue areas, for example, agriculture, NTBs, and trade in services. In this view, commercial relations from the nineteenth century till present exhibit much more continuity with respect to the form of cooperation than one might assume at first sight.

The United States has been the key supporter of the multilateral trade regime. It could be seen, however, that the domestic political constellation in the United States made it very difficult to exchange concessions multilaterally. I have shown in the previous chapter that the involvement of Congress in trade-policy making rendered it almost impossible to achieve any reciprocal liberalization at all. This problem was resolved through the RTAA by transferring the trade-policy making authority from Congress to the government. My discussion of U.S. trade cooperation after the RTAA shows that the members of Congress and private economic actors were still able to influence trade-policy making to a considerable degree. The analysis of the three cases of institutional choice in this chapter shows that the grip of Congress and private interest groups on trade-policy making constantly tightened from 1934 to the Uruguay Round. Several institutional devices were installed so as to enable private economic actors to make their interests heard before and during the trade rounds. Moreover, the government’s continuous reliance on Congress for the conferral of bargaining authority ensured that domestic distribution remained an essential determinant of institutional choice. All in all, my empirical analysis indicates that private economic actors always find a way to make themselves heard in trade-policy making.

The prevalence of concerns about distribution in the United States, and presumably in other countries as well, explains why bilateral cooperation has been pervasive in the GATT. The examination of the case of the Kennedy Round shows that bilateral item-by-item bargaining under MFN treatment creates high transaction costs because of the internalized enforcement problem. The United States and all other Contracting Parties
recognized that a switch to multilateral bargaining in combination with a formula approach was necessary to decrease transaction costs. This mode of cooperation promotes liberalization insofar as all countries need to expressly exempt certain items from the formula. However, it could be shown that the transaction costs did not decrease remarkably because countries were still obsessed with achieving reciprocity and distributional objectives. Furthermore, my analysis of the government procurement negotiations demonstrates that the adoption of multilateral procedures at the Kennedy Round did not mean a wholehearted turn to multilateral bargaining in all issue areas. On the contrary, the case of government procurement shows that the GPA members chose forms of cooperation that fell back behind the original GATT mode because MFN treatment was not mandatory. This insight is particularly interesting because non-discrimination was considered an absolutely indispensable element of trade cooperation after World War II, when the experiences of the Great Depression were still fresh. The observation that the adherence to MFN treatment eroded within the trade regime and that liberalization could be achieved nevertheless forms the basis for my discussion of the design of a future trade regime in the concluding chapter of my thesis.
7. Conclusion

The concluding chapter serves three purposes. First of all, I will draw together the empirical findings I derived from the seven cases that I analyzed. I conclude that my domestic politics model explains the examined institutional choices well and outperforms all the competing explanations. In light of my empirical evidence, I argue that concerns about domestic distribution come close to being a sufficient condition for institutional choice. Political actors behave as hypothesized when concerns about domestic distribution prevail. The case studies occasionally suggest that one of the competing independent variables contributed to decision-making. However, the empirical evidence at hand does not allow me to derive any clear hypotheses about how these variables influence institutional choice.

On the basis of my findings, I draw further conclusions related to the general understanding of the choice between bilateralism and multilateralism in international cooperation. The notion of country-sensitivity, which accounts for bilateralism in international trade, can be generalized to international cooperation, so I expect to see a preference for bilateralism because of distributive concerns in a wide array of issue areas. On the other hand, positive and negative externalities of bilateral cooperation create enforcement problems that generate an incentive for multilateral cooperation. I thus believe that institutional cooperation is generally characterized by a dilemma of institutional choice that derives from countervailing concerns about distribution and enforcement. Many scholars conceive of concerns about enforcement as the superseding variable that determines whether countries bargain at all. Contrary to this perspective, I argue that actors have a zone of indifference. The size of the zone captures the extent to which actors are prepared to cooperate bilaterally in presence of enforcement problems in order to achieve distributional goals.

I will conclude this thesis by considering the role bilateralism and multilateralism can play in the future development of the world trade regime. On the basis of my model and empirical findings, I propose clustered bilateral item-by-item bargaining without MFN treatment for concession-making, e.g., tariff reductions. This form of cooperation enables countries to achieve their distributional goals. The simultaneous character of the negotiations is one safeguard against the externalized enforcement problem that results from the absence of MFN treatment. Additional supplementary institutional devices, which I will discuss in this section, are necessary to address some further problematic
features of clustered bilateral bargaining. I suggest a club-of-clubs approach for multi-
lateral rule-setting (Lawrence 2006). The overall club would be the WTO and each club
within the WTO would deal with a different issue. All countries should be allowed to
participate in the negotiations without being obliged to subscribe to the outcome. Club
members should be allowed to discriminate in rule-application between members and
non-members where this is possible in order to avoid free-riding. If discrimination is not
feasible because of the nature of the issue in question, the club members should be al-
lowed to withhold a concession in another issue area so as to be compensated for the
loss deriving from free-riding of non-members.

7.1. The Exchange of Concessions in International Trade

The Prevalence of Concerns about Domestic Distribution

Starting with my hypothesis on the effects of distributional concerns, it could be shown
in all cases that political actors put much emphasis on the domestic distributional impli-
cations of trade cooperation and the expected changes in support by economic actors.
The case of France showed that this finding also holds for Napoleon III, who was the
ruler in a non-democratic country and obtained a particularly strong position in the
French state (McKeown 1982). Notwithstanding that Napoleon III did not have to rely
on the support of economic actors in order to win elections, he was particularly eager to
keep control over the domestic effects of the Anglo-French agreement and future trade
agreements in general. This observation suggests that my domestic politics model is ap-
licable to democracies as well as non-democratic countries.

The observation that domestic distribution matters may come as less of a surprise
for the case of the United States. It is common knowledge that interest groups had and
still have a strong influence on Congressional trade policymaking (e.g., Destler 2005;
Eaker and Rubenstein 1998; Milner 1988; Schattschneider 1935). It is interesting to see,
however, that the delegation of the tariff-making authority from Congress to the gov-
ernment did not substantially limit the influence of interest groups after 1934. One rea-
son why the U.S. executive had to continuously pay attention to the interests of domes-
tic economic actors was the need to receive Congressional support for an extension of
the trade program from time to time. The analysis of the Kennedy Round and the
negotiations on government procurement further highlighted that the control of the
Congress steadily tightened after 1934. It invented various instruments that promoted
the accommodation of the interests of economic actors in trade-policy making (cf.,
Destler 2005; Goldstein 1993). Therefore, the conferral of trade-policy making authority
Goldstein 1993). Therefore, the conferral of trade-policy making authority from Congress to the U.S. executive in 1934 fostered the pursuit of a liberal trade policy (Bailey et al. 1997; De Bièvre and Dür 2005; Haggard 1988). It did not, however, diminish the need to trade off the interests of domestic producers against the conflicting trade-policy preferences of other groups.

Taken together, economic actors always seem to find their way into trade-policy decision-making. This implies that concerns about domestic distribution are always present and shape the political actor’s institutional choice. As I explained in chapter 3, the United States and France were least-likely cases because they were large countries that were little trade-dependent. This property of the examined countries makes it feasible to generalize my findings to other large countries and small countries that are more trade-dependent. My qualitative findings corroborate the results of quantitative studies suggesting that concerns about domestic distribution play an important role in trade-policy making (e.g., Gawande and Li 2006; Pahre 2007; Thede 2005). In this view, the “societal basis of the state” (Gourevitch 1986) seems to be rather strong in international trade relations.

A further note is in order on my conceptualization of domestic economic actors. My distinction between import-competers, exporters, consumers, and import-users goes beyond most of the existing conceptualizations, which disregard the latter two or subsume them under former two (e.g., Baldwin 2006b; Pahre 2007). My empirical analysis indicates that my four-fold distinction carries much potential. Some domestic conflicts and decisions cannot be understood if one disregards consumers or import-competers as an independent type of economic actor. For example, the case of the Anglo-French agreement of 1860 shows that the increase in the support by these two types of economic actors was essential to at least partially compensate for the loss in support by import-competers. Another case in point is the failure of French tariff revision in 1872, when protectionist economic actors opposed higher tariffs because this would have increased the prices for imported input-factors they needed for production. In light of this and other cases, it seems promising to apply my four-fold distinction as the basis for the theoretical and empirical understanding of trade-policy making.

The Form of Cooperation and the Bargaining Approach
The empirical analysis of all seven cases provides positive evidence for the hypotheses that concerns about distribution prompt bilateral bargaining and item-by-item negotia-
tions. Bilateralism was the only form of bargaining that was employed by France after 1860 and the United States after 1922, 1934, and 1945. In each of the cases, I have found strong evidence for my conjecture that political actors bargain bilaterally in order to manage the domestic distributional implications of trade cooperation. The same conclusion holds for those cases where bilateralism was embedded in a mixed form of bargaining, as was the case in France in 1892, and in the United States at the Kennedy Round and in the government procurement negotiations. In these instances, bilateralism served to fine-tune concession-making and remedy the distributional imbalances that would have occurred under exclusively multilateral bargaining.

When one extends the focus beyond France and the United States, one can observe that other countries also seemed to be strongly inclined toward bilateralism. Until the Kennedy Round in the 1960s, bilateralism was the default mode of cooperation for all countries (cf., Irwin 1993b). The secondary literature occasionally indicated that concerns about domestic distribution were the reason for the choice of bilateralism. However, whatever the reasons for bilateral cooperation may have been, I conclude that bilateralism was generally a central pillar of international trade cooperation throughout the last 150 years.

I have hypothesized that sequential bilateral bargaining suffers from enforcement problems and that negotiations are clustered as a response to these problems. These conjectures are supported by my empirical analysis. The analysis of the French negotiations with Great Britain and other countries in the early 1880s clearly highlights the pros and cons of sequential negotiations under MFN treatment. On the one hand, France successfully concluded treaties with other countries and thereby increased the bargaining pressure on Britain. On the other hand, France was a victim of its own bargaining tactics because it became anxious to extend the concessions granted in the recently concluded treaties to Great Britain. I made a similar observation in the analysis of the international negotiations following the enactment of the RTAA. The United States addressed this problem by diversifying its tariff schedule and clustering, which I have described as a suitable means to diminish the internalized enforcement problem.

My model performs less well with respect to multilateral bargaining. I assumed that concerns about enforcement are the driving force behind the choice of multilateral bargaining. I found empirical support for this conjecture in the analysis of the Kennedy Round. The contracting parties decided to bargain multilaterally in order to decrease the transaction costs of bilateral item-by-item bargaining. The case of France in 1892 con-
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... my hypothesis on the determinants of multilateral bargaining. I have found unambiguous evidence showing that the invention of a dual-tier tariff, which is equivalent to pure multilateralism, can be best explained through protectionist motives of the government and large parts of the French assembly. In a sense, the Méline tariff was a kind of least-likely case. The weak point of my model is that I assume that bargaining serves to alter tariff levels, which is not the case in a dual-tier system with fixed tariff levels. Because of the inflexibility of French tariffs, it was unlikely that concerns about enforcement were the reason for the invention of a dual-tier schedule. Notwithstanding this shortcoming of my model, the analysis of the Méline tariff highlighted the inflexibility of multilateral bargaining in achieving domestic distributional goals. The lack of flexibility was the reason the government insisted on the opportunity to conclude bilateral MFN agreements even after the establishment of the double-tariff system.

My conjectures on the choice of the bargaining approach receive full empirical support from all seven cases. In each case, there was convincing evidence that selective trade liberalization was preferred over an across-the-board cut so as to manage the domestic distributional impact of commercial cooperation. The Kennedy Round negotiations represent the only case in which a formula approach was chosen. I hypothesized that a formula cut is selected because of prevailing concerns about transaction costs. My empirical analysis provided ample evidence showing that the contracting parties believed that item-by-item negotiations had become too time-consuming. A formula approach was considered the only viable way to diminish transaction costs. It could be further seen that the United States and the EEC insisted on a formula that suited their individual needs most. The United States, as a high-tariff country, preferred a linear cut, while the EEC, as a low-tariff “country”, pushed for a harmonizing approach. This finding corroborates my hypothesis on the choice between these two basic types of formulas. In addition, the fact that the United States and the EEC could not formally agree on a formula underscores my conjecture that actors have to forego some of their distributional concerns if a formula is to reduce transaction costs.

I expected the choice of the form of cooperation and the bargaining approach to be closely interrelated. Concerns about distribution were assumed to drive the choice for bilateral bargaining and item-by-item negotiations. Concerns about enforcement and transaction costs, on the other hand, underlie the choice of multilateral bargaining and a formula approach. The analysis of the Kennedy Round shows that the choice between the bargaining approach and the form of cooperation are closely intertwined, since the
on the scene again when it became apparent that multilateral bargaining and a formula cut were too inflexible to accommodate the divergent distributional concerns of the involved countries. These observations strongly corroborate my conjecture about the intimate link between institutional choice on the bargaining approach and the form of cooperation. The hypothesis is further supported by the fact that bilateral bargaining was exclusively combined with item-by-item negotiations in the six other cases.

My empirical analysis also corroborates my argument that institutional choice is marked by a dilemma of accommodating countervailing concerns about distribution and enforcement. The dilemma can be observed in all examined cases. For example, the United States chose MFN bilateralism after the enactment of the RTAA because of strong concerns about domestic distribution. This form of cooperation created an internalized enforcement problem that in turn undermined the pursuit of distributional goals. The trade-off that is inherent to the pursuit of concerns about distribution and enforcement became particularly apparent in the Kennedy Round. The contracting parties were determined to minimize the extent of bilateral bargaining in this GATT Round. As the negotiations proceeded, it turned out that multilateralism was inappropriate to achieve distributional goals and bilateralism played a much more important role than originally intended. The case of the Kennedy Round shows that the dilemma is also characteristic for the choice of the bargaining approach. A formula was chosen at the start of this round in order to decrease the high transaction costs that derive from item-by-item negotiations. However, the formula mode proved to be too inflexible to accommodate concerns about distribution and item-by-item bargaining became widely applied in the second stage of the Kennedy Round.

When the evidence is taken together, my hypothesis on the effects of concerns about distribution receives strong empirical support. The evidence suggests that if concerns about domestic distribution and enforcement are most salient, political actors made the expected institutional choice., i.e., these two variables appear to be a sufficient condition for institutional choice. Given the limited number of cases covered by my empirical analysis, this is only a preliminary conclusion that deserves closer inspection by examining a larger number of cases.
The Application of MFN treatment

My hypotheses on the application of MFN treatment are confirmed by the analysis of the France in the nineteenth century, the United States in the interwar period, and the government procurement negotiations. Liberal-minded French actors considered the application of MFN provisions an indispensable part of the turn to liberal trade. In the decades following the Anglo-French agreement, it could be seen that the opposition to MFN treatment increased in tandem with the increasing protectionist sentiment in France that finally resulted in the invention of a double-tariff schedule in 1892. However, the government insisted on keeping the right to conclude MFN agreements in order to at least partially accommodate the interests of exporters in bilateral bargaining and prevent foreign retaliation.

A similar rationale accounts for the introduction of MFN treatment by the United States in the course of implementing the Fordney-McCumber Act. The United States introduced MFN treatment as a last resort, since all other instruments of export promotion had previously failed. The anomalous design of the Fordney-McCumber Act can be explained by the reluctance of the United States to combine MFN treatment with bargaining over tariff levels. Since tariffs could not be lowered through bargaining, it was without any risk to combine protectionist duties with MFN treatment. If one takes the inflexibility of the Fordney-McCumber tariffs into account, the design of U.S. trade cooperation after 1922 is less peculiar than it may seem at first. This discussion shows that the shortcoming of my model is the assumption that MFN provisions are combined with bargaining. This finding, in combination with the corresponding observation made in the analysis of the Méline tariff, suggests that a model of institutional choice should include a variable capturing whether duties are fixed or flexible. My analysis of the RTAA showed that the U.S. administration derived the right conclusions from the experiences made with the Fordney-McCumber Act. Export promotion required the combination of non-discriminatory treatment with real bargaining, which eventually was the design on the basis of which the United States cooperated after 1934.

The government procurement negotiations also confirm my hypothesis on MFN treatment. Bilateralism and strict reciprocity dominated bargaining on the access to foreign government procurement markets. There is strong evidence that concerns about domestic distribution and protectionist motives were the reason for the pursuit of strict reciprocity. The same holds for the decision of the parties to the GPA to discriminate between subscribers and non-subscribers in the application of the rules governing public
procurement. Taken together, the case of government procurement shows that there can be a strong sense of protectionism even in cooperation that aims at liberalization. This observation gives rise to the question of why liberalization in government procurement was at least moderately successful in the absence of MFN treatment, which is hypothesized to be essential for trade liberalization. An answer to this question is given in section 7.3, in which I discuss the shape of the future world trade regime.

Scope of the Model
I have hypothesized that my basic model has broad scope. The regime type, the electoral organization of the political process, the ideology of political actors, and the relative size of countries were assumed to have no influence on institutional choice. With respect to a country’s relative size, I hypothesized that large countries might lean more toward bilateralism than small countries in order to employ their power to achieve a better deal. In addition, I hypothesized that it is more likely that a political actor will pursue reciprocity the larger its constituency is, since larger constituencies tend to include economic actors with conflicting trade-policy preferences that need to be accommodated.

My empirical analysis supports these conjectures. The analysis of France and the United States suggests that the size of the constituency matters as much as was hypothesized. The members of parliament in France and the members of Congress in the United States were responsive to small constituencies in which only one type of economic actor was represented. The responsiveness toward a small constituency made it virtually impossible for the legislative branch to effectively implement reciprocal trade. This was only possible when trade-policy making laid in the hands of the government that represented a much larger constituency. Moreover, I have shown that political actors with weak ties to economic actors, e.g., the U.S. State Department, were prepared to pursue other goals than a domestic distributional balance.

The case studies partially support the hypothesis on the link between asymmetries the bargaining countries and institutional choice. At various points in the empirical analysis, I have presented evidence that France and the United States chose to negotiate with other countries in a particular sequence so as to obtain more bargaining leverage in later negotiations. This strategy is impossible to pursue in multilateral bargaining. For the reasons detailed in section 3.2, I selected large countries for in-depth within-case analysis. However, the analysis of the international negotiations in which France and the United States were involved produced some evidence on the behavior of small-n coun-
tries that enables me to draw tentative conclusions. The empirical findings at hand suggest that the small countries’ preference for multilateralism is less prevalent than I expected. I have not made any findings indicating that small countries were dissatisfied with bilateralism because they worried about being exploited. On the contrary, small countries displayed similar institutional choices and bargaining behavior, so the degree of trade-dependence does not seem to matter much for institutional choice. This finding suggests that one should take a closer look at the (dis)similarities of the domestic politics of trade-policy making and institutional choice of small and large countries.

As I have already explained above, the empirical analysis of France around 1860 shows that the regime type does not seem to influence the basic logic of institutional choice. Political leaders in non-democracies, in this case Napoleon III, do not appear to be less responsive simply because they cannot be held responsible in elections. Economic actors have multiple channels of influence besides those that are related to elections. It follows from this that the electoral organization does not matter either, and I have found no evidence suggesting the opposite. On the basis of my empirical analysis, the ideology of political actors appears to be unrelated to institutional choice, too. It could be observed that the institutional choice of the political actors varied, depending on the trade-policy preference of the economic actors to which the political actors held close ties. There is, however, no indication that left-wing or right-wing ideology was systematically related to institutional choice. In sum, I conclude that most of the variables that influence trade policy decision making do not affect institutional choice, making my model applicable to a wide array of countries without modifying its key hypotheses.

The Explanatory Power of Competing Explanations
My model fits the empirical evidence well and, moreover, outperforms the competing explanations that I discussed in section 2.6. When one considers all seven cases in conjunction, there is no other approach that explains institutional choice better than my model does. Out of all rival independent variables, concerns about the balance of payments is the variable that mattered most for institutional choice. The precise effect is difficult to determine, however. Great Britain’s behavior in the negotiations on the GATT exemplifies this indeterminacy, since there were two groups with conflicting interests. One group believed that the reduction of balance-of-payments problems demands bilateralism, whereas the other group considered multilateralism the superior
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form of cooperation. The analysis of the Kennedy Round showed that President Ken- 
nedy and his administration also believed that multilateralism would solve the upcom- 
ing balance-of-payments problems of the United States. In light of this evidence, my 
study does not allow me to make any claim about the effect of concerns about balance- 
of-payments on the form of cooperation. Further research on this topic seems warranted.

Neo-realism performs less well than one might have expected at the outset. Con- 
cerns about external security mattered in some of the examined cases. However, secu- 
rity concerns never appeared to be the driving force behind institutional choice, not even 
in the nineteenth century, which was characterized by political-military rivalry between 
the major powers. The efficiency approach and the revenue approach do not carry much 
explanatory power either. In none of the seven cases have I found evidence for the claim 
that countries seek reciprocity in order to realize larger welfare gains than would result 
under unilateralism. It seems that the pursuit of efficiency is neither a good predictor for 
what trade policy is pursued (Ruigrok 1991), nor for the form of cooperation with which 
the trade policy is implemented. One could observe that the revenue-generating charac- 
ter of tariffs mattered for trade-policy making as long as an income tax system had not 
been invented. But the tariff-revenue argument on institutional choice could not be cor- 
raborated in any of the cases. The interdependency between domestic and foreign tariff- 
setting and the effects on revenue did not seem to be strong enough to influence institu-
tional choice. This finding lends support to the argument that countries do not use their 
market power to affect the terms of trade (Regan 2006), which is a central element in 
the tariff-revenue approach.

I have explained in section 2.6 that it is notoriously difficult to hypothesize about 
the effects of ideas on institutional choice. In a similar vein, it is difficult to assess em-
pirically the role of ideas in the empirical analysis (cf., Chwieroth 2007; Frieden 1999). 
Napoleon III pursued liberalization because of his belief in the benefits of more liberal 
trade and the desire to strengthen the French nation. Kindleberger (1975) notes that the 
political leadership of other countries had similar motivations. There is, however, no 
evidence that these ideas shaped France’s institutional choice in 1860. Nor have I made 
any finding that ideas mattered for institutional choice in 1892. A sense of nationalism 
contributed to the high tariffs of 1922, but it does not help in understanding the form of 
cooperation chosen by the United States. In 1934, in contrast, Cordell Hull was con-
vincing that discriminatory trade spurred political stress and, in the extreme case, war. 
The idea of non-discrimination played a major role in Hull’s decision to apply MFN
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treatment. With respect to the three cases of institutional choice after World War II, there is again no hint that ideas mattered for institutional choice. All in all, the cases produce little evidence for the systematic influence of a particular idea on the design of international trade cooperation.

In sum, I conclude that my domestic politics model of institutional choice explains institutional choice particularly well and that it outperforms all other examined models. This does not mean, of course, that no further research on the determinants of the design of international trade cooperation is warranted. In light of the good performance of the domestic politics model, it appears reasonable to take this as the starting point for the development of a more complex model. One promising avenue for supplementary research seems to be the inclusion of concerns about the balance of payments as an additional variable, since the balance-of-payments approach performed second best. Another issue that is worth investigating is the tipping point that prompts a different institutional choice (cf., Mahoney 2000a; Pierson 2004). One question one could ask is how big can the externalized enforcement problem grow until a political actor decides that MFN treatment needs to be applied? A related question is how large can the internalized enforcement problem become before bilateralism is replaced by multilateral cooperation? Some tentative thoughts on the latter question are provided in the following section, in which I detail the implications of my study for international cooperation research in general.

7.2. Bilateralism and Multilateralism in International Cooperation

Concerns about Distribution, Country-Sensitivity and Bilateralism

International trade bargaining is characterized by country-sensitivity, which biases institutional choice toward bilateralism in the presence of concerns about distribution. International cooperation mostly involves a conflict about the distribution of the benefits (or costs) of cooperation (cf., Fearon 1998; Krasner 1991; Morrow 1994), meaning that one prerequisite for the generalization of my findings is given. The notion of country-sensitivity can be generalized to other policy fields because states generally vary with respect to variables that matter in cooperation. For example, in the field of international double taxation, the size of investment flows and the status of a state as capital-importer and capital-exporter are different from country to country. One should expect that cooperation in international double-tax avoidance should be bilateral. As a matter of fact, the regime governing double-tax avoidance is marked by more than 2,000 bilateral treaties.
(Rixen and Rohlfing 2007). Because of the prevalence of distributional goals and country-sensitivity in international relations, I deem my findings generalizable to international cooperation and hypothesize that countries prefer bilateralism to multilateralism because of concerns about distribution.

The argument that distributional concerns lead to bilateralism runs counter to the conjecture that distributive conflicts are easier to resolve in multilateral arrangements (e.g., Koremenos et al. 2001, 784-785; Sebenius 1983, 309-310). The rationale for the adding-actors argument is that the expansion of a bargain might produce a zone of agreement that is infeasible in bilateral negotiations. The first problem I see with this argument is that it has always remained implicit why bargains are bilateral at the outset at all. My study suggests that concerns about distribution in combination with country-sensitivity are the reason for the initial choice of bilateralism. My analysis further shows that the adding-actors claim rests on an implicit assumption that I think is rarely met in international cooperation. Enlarging the bargain between actor A and B by C only works if this does not create new bargaining problems between A and C and/or B and C. One can readily assume that actor C will demand compensation for resolving the stalemate between A and B. Country C might request something from A and/or B that they can easily deliver, but I question that this is the rule in international relations. Future research on this topic should focus more on the requests the additional actor makes vis-à-vis the other actors and how far these claims increase or decrease the likelihood that a bilateral bargaining stalemate can be resolved.

**Enforcement Problems, Externalities, and Multilateralism**

My analysis of international trade cooperation suggests that the path toward bilateral cooperation is often problematic, if not forestalled because of enforcement problems. I distinguished between internalized and externalized enforcement problems in international trade relations. Externalized enforcement problems arise in bilateral cooperation without MFN treatment, whereas bilateralism including MFN treatment leads to the internalized enforcement problem. MFN treatment is not applicable to most issue areas in international relations, so it is necessary to reframe the enforcement problems in commercial cooperation in order to make my insights generalizable.

The externalized enforcement problem can be conceived of as equivalent to a *negative externality*, since the concessions countries exchange in trade cooperation have adverse affects for the states that are not parties to the agreement. Conversely, the inter-
nalized enforcement problem is similar to the generation of positive externalities, because the states that do not conclude a treaty benefit from MFN treatment by the contracting parties. Defection by a treaty partner can be subsumed under the rubric of positive externalities. A country turns from the producer of a positive externality to a receiver if it chooses to defect. Like all other countries that were not among the contracting countries, it free-rides on the cooperative behavior of the remaining contracting state(s) and benefits from the positive externality.

My study of trade cooperation shows that countries respond through MFN treatment and clustering to the problem of negative externalities (i.e., the externalized enforcement problem). I consider it reasonable to argue that both instruments are not available in international cooperation in other issue areas. The MFN principle is infeasible in most policy fields, so one cannot solve the problem of negative externalities by adherence to MFN treatment or a similar instrument. Since MFN treatment is not available, it follows that positive and negative externalities are similar in their effects on institutional choice in international cooperation. It should be noted, however, that positive and negative externalities make a difference in respect to the countries that give the impetus for solving the externalities problem. In the case of negative externalities, the states that suffer from it demand multilateralism. Under positive externalities, the countries producing the externality push for multilateral cooperation. Nonetheless, I simply speak of “externalities” in the following, except when explicitly stated otherwise.

Theoretically, clustering is a feasible option in international cooperation because countries can always decide to switch from sequential to simultaneous negotiations. However, I think that one should rarely observe clustered bilateralism. Externalities generally affect a large number of countries. My analysis of trade cooperation highlights that this makes sequential bilateral negotiations impracticable. The reason for this difference between tariff bargaining and cooperation in other policy fields is the number of issues about which states negotiate. Countries bargain about thousands of different items in tariff negotiations. The number of countries that is affected by a specific tariff reduction is small due to the countries’ specialization in production and the strongly diversified tariff schedules. This makes it possible to cluster the negotiations about particular items. As I showed in my study, the demand for multilateralism in tariff negotiations derives from the sheer number of items, and not from the interest of numerous countries in the same item.
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This is different in trade bargaining about rules, which represent a single issue. The case of government procurement exemplifies that multilateral rule-setting may invite free-riding by non-subscribers, which highlights that the number of affected countries is generally large in negotiations about rules and standards (cf., Lawrence 2006; McGuire 1999). In this respect, trade bargaining on rules is similar to cooperation in other policy areas, which is also only concerned about one issue, for example, the reduction of emissions of carbon dioxide. For these reasons, I argue that multilateralism is the only viable institutional response to externalities and hypothesize that externalities prompt the choice of multilateralism in international cooperation.

This conjecture runs counter to two frequent claims one finds in the literature on trade cooperation. First, it is assumed that cooperation is bilateral when there is no enforcement problem (e.g., Axelrod and Keohane 1985; Fearon 1998; Gilligan 2004). Second, one finds the claim that multilateral cooperation is difficult to achieve because of the larger number of involved countries, and that accord can be promoted by decomposing the multilateral bargain in multiple bilateral arrangements (Martin 1993; Oye 1985). Both arguments disregard the possibility and effects of externalities deriving from bilateral cooperation. The reason for this neglect is the exclusive focus on enforcement problems in the form of non-excludability, which are characterized by positive externalities. However, negative externalities matter in international cooperation too, since they prompt the suffering country to demand a multilateral arrangement. Because of the impact of negative externalities, a thorough analysis of the design of international cooperation is better advised to focus on positive and negative externalities instead of enforcement problems.

Cooperation on the reduction of greenhouse gas emissions is a case in point for the effects of positive and negative externalities on institutional choice. On the one hand, the reduction of emissions is characterized by positive externalities. All countries benefit from the positive effects of lower emissions by one country, independently of whether the beneficiaries cut their production of greenhouse gases as well. This diminishes the incentives for a state to move ahead alone and explains the insistence of many countries on a multilateral arrangement. On the other hand, the unhampered emission of greenhouse gases creates negative externalities from which some countries suffer more than others. It can be observed that these states push for a multilateral solution as well. Moreover, concerns about distribution and county-sensitivity play a role in the current discussion on the greenhouse effect. For example, countries with lower levels of devel-
opment and emissions demand that developed countries producing more greenhouse gases reduce their emissions more. This example indicates that externalities and concerns about distribution create countervailing incentives for institutional choice. These observations suggest that the interaction of distribution and externalities does not only shape state behavior in commercial cooperation, but in international cooperation in general.

**The Interaction of Distribution and Externalities**

Taking my arguments on distribution and externalities together, I expect that a dilemma of institutional choice is widespread in international relations. Distributive concerns mandate bilateralism, whereas the handling of externalities requires multilateralism. The question then is, what concerns prevail in institutional choice? Fearon (1998) argues that actors do not bargain at all if they know that the outcome cannot be enforced, meaning that he conceives of concerns about enforcement as the variable that supersedes worries about distribution. Similar, mostly implicit, arguments have been made in the literature on “cooperation under anarchy”, which was pessimistic about the possibility of cooperation in the absence of enforceability (cf., Oye 1986). Neoliberal institutionalism has pointed to ways by which enforcement problems can be overcome. For example, the foundation of institutions and repeated interactions are claimed to diminish the enforcement problem (e.g., Axelrod 1984; Keohane 1984).

My study suggests a slightly different perspective on this issue and indicates that the devices suggested by neoliberal institutionalists may not be necessary to achieve cooperation. I agree with the argument that countries do not negotiate about a deal and enter into an agreement if they believe that they cannot reap any benefits from it, i.e., no other country is expected to behave cooperatively. However, it could be seen in my analysis that countries cooperated bilaterally and were reluctant to switch to multilateralism even in the presence of positive externalities. Thus, my findings show that the $k$-group approach has empirical resonance, according to which $k$ countries may decide to cooperate even if $n-k$ countries free-ride (cf., Genschel and Plümper 1997; Snidal 1985). My thesis shows that $k$ is generally 2 in international trade, because countries choose bilateralism in order to pursue distributional goals. Concerns about distribution and country-sensitivity are also prevalent in other issue areas, so I presume that $k$ is generally biased toward 2 in international cooperation.

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169 Since the literature focuses on enforcement problems, I will speak of enforcement issues and use its vocabulary where appropriate.
The fact that countries are prepared to cooperate bilaterally in the face of externalities suggests that states have a zone of indifference. The zone determines the extent to which countries are prepared to accept externalities in order to achieve distributional goals in bilateral bargaining. The larger the zone of indifference is, the less salient the externality problems will be in institutional choice and the stronger the commitment toward bilateralism. Conversely, the greater a country’s concern about externalities, the sooner it favors multilateralism over bilateralism and the smaller the zone of indifference.

**Figure 7: Zones of indifference and the choice between bilateralism and multilateralism**

The logic behind the notion of a zone of indifference is captured in figure 7. The horizontal axis measures the existing externalities that are assumed to be exogenous. The left end of the scale represents the above-mentioned argument that bilateral cooperation is impossible under externalities, if it results at all (Fearon 1998). A country that is not prepared to accept any externalities will be located at this end of the axis. States that are located at the right side of the scale will never cooperate multilaterally, no matter how large the externality problem is. The two dashed vertical lines represent two countries, \( i \) and \( j \), which take moderate positions. The zone of indifference of country \( i \) is relatively small, exemplifying that it does not need a high level of externalities to
switch from bilateralism to multilateralism. On the other hand, state $j$ has stronger concerns about distribution and will only opt for multilateralism if the externalities become rather large.

If one wants to get a better understanding of the choice between bilateralism and multilateralism, one should specify the variables that determine the zone of indifference. For example, one can assume that the policy field matters. Externalities presumably matter more in international security, where defection by other countries may have severe consequences. In international trade, on the other hand, the effects of externalities tend to be less serious (cf., Lipson 1984). A tentative hypothesis would be that the zone of indifference is larger in trade than in security affairs. In sum, my findings indicate that more research should be done about the interaction and the almost inherent friction of concerns about distribution and externalities.

7.3. The Shape of the Future World Trade Regime: What Role for Bilateralism and Multilateralism?

Reasons for Discord in the World Trade Regime

At the outset of this thesis, I detailed that bilateralism is generally considered a deficient form of cooperation in international trade. One empirical and one theoretical reason account for the broad opposition to bilateralism. Empirically, bilateral cooperation is associated with the dark days of international trade, particularly the Great Depression (Kitson and Solomou 1995). This perspective is not entirely wrong, since most cooperation was purely bilateral during the Great Depression (Tasca 1938). Pure bilateralism, however, is neither necessary nor sufficient for a protectionist trade policy. My study showed that France pursued a protectionist trade policy after the 1880s, even though it formally adhered to the MFN principle. The same holds for the United States after the Fordney-McCumber Act. On the other hand, the government procurement negotiations at the Uruguay Round exemplify that trade can be liberalized on the basis of pure bilateralism. In the light of my findings, one should be very cautious in generalizing the undoubtedly bad experiences that were made during the Great Depression.

The theoretical argument against bilateral cooperation is welfare-based. Bilateral cooperation may divert trade away from efficient and to inefficient producers and decrease overall welfare. Multilateralism, which is equal to non-discrimination, pre-
vents such welfare-losses because trade diversion cannot occur. I do not disagree with this welfare perspective on the form of cooperation, but I plead for a sharp distinction between the normative and the positive analysis of institutional choice. This plea seems necessary because scholars and policymakers alike conclude from the comparative welfare-analysis of bilateralism and multilateralism that countries should cooperate multilaterally. My thesis indicates that this normative conclusion conflicts with the reality of institutional choice. Political actors choose bilateralism as a means to manage the domestic distributional implications of trade cooperation. Multilateralism is not chosen because of concerns about overall welfare, but in order to manage the enforcement problems that derive from their concerns about distribution. My empirical analysis further shows that political actors need to supplement multilateralism with some elements of bilateralism so as to diminish the distributional imbalances resulting from multilateral cooperation. In this view, multilateral cooperation may be welfare-superior, but it is only feasible in practice under specific conditions.

The insights derived from my analysis give rise to the question of which role bilateralism and multilateralism could play in promoting cooperation in the future world trade regime. Cooperation within the GATT and the WTO witnessed a trend toward multilateralization throughout the past four decades (Beane 2000; Kahler 1992). The first step was made at the Kennedy Round by switching to multilateral negotiations about tariffs on manufactured goods. The multilateralization of bargaining later spread to other issue areas, e.g., agriculture and NTBs. The substitution of bilateral bargaining by multilateral procedures went along with a decline in membership of the multilaterally agreed-on outcomes (VanGrasstek and Sauvé 2006; Winters 1990). This trade-off between multilateral bargaining and the coverage and depth of an agreement is in accord with my hypothesis that distributional goals are difficult to achieve under multilateralism.

Observers of the Uruguay Round and the current Doha Round identified three main reasons for the increasing problems in achieving further progress (Baldwin 2006a; Collier 2006; Heydon 2006). First, the WTO now has around 180 members. The sheer number of countries whose interests need to be accommodated has increased vastly since the first GATT Round, which only involved 23 countries (Hoekman and Kostecki 2001).

is somewhat more efficient than producer B. If good B is charged with a much lower tariff than good A, trade will be diverted away from producer A to the less efficient producer B.
Second, the number of countries with sufficient bargaining power to make their interests heard has increased as well. Some countries, like Brazil, Argentina, and India, have gained economic power and can now hardly be neglected in bargaining by the developed countries (cf., Kahler 1992). In addition, developing countries that are too weak on their own form coalitions like the G77, which represents the poorest countries within the WTO (cf., Higgott and Cooper 1990; Narlikar and Odell 2006). Notwithstanding that one often finds conflicting interests within these groups, they have increased the number of powerful actors at the bargaining table.

Third, the expanding coverage of the world trade regime has now reached issue areas that are particularly sensitive. This is not to say that the member countries did not confront any problems during the first decades of the GATT (Curzon 1965), but the Uruguay Round and the Doha Round dealt with more difficult issues than the previous trade rounds. The prospects are generally favorable for finding an agreement because the bargaining constellation involves countries with complementary interests. On the one side, the developed countries are interested in liberalization and harmonization in various areas, e.g., trade in services, government procurement, and investment. The developing countries are particularly interested in the liberalization of those sectors in which developing countries have strong export interests, most notably agriculture (cf., Davis 2003, 2004; Gawande and Hoekman 2006). This constellation provides some scope for cross-sectoral linkage, for example, by exchanging agricultural liberalization against liberalization in services. The differing domestic salience of these issues in developed and developing countries is one major reason why accord is difficult to achieve. Another reason is that the developing countries expect the developed countries to make larger concessions, since the latter are claimed to have benefited from asymmetric deals in past trade rounds (Collier 2006).

The three factors that particularly plague further progress in the world trade regime figure prominently in my model. I have shown that including a large number of actors inhibits the pursuit of distributional goals in multilateral bargaining and in the presence of MFN treatment. Ceteris paribus, an increase in the bargaining power of weak developing countries hinders agreement too, since the asymmetry between developing and developed countries diminishes. As I argued in section 2.5, it is easier to strike a deal in asymmetric bargaining constellations compared to symmetric negotia-

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171 There is also disagreement within the groups of developed countries and developing countries respectively. The greater disagreement, however, seems to be between these two groups of countries.
7. Conclusion

tions. Furthermore, I have shown that the salience economic and political actors attach to particular items affects the difficulties that the latter confront in achieving a domestic distributional balance. Liberalization in the world trade regime has now reached the issues that are particularly salient to domestic producers, i.e., the strong opposition of well-organized producers makes it particularly difficult for political actors to achieve a feasible deal (Baldwin 2006b). This is especially true when political actors are unable to trade market access across different areas, e.g., to offer enhanced access for agricultural imports in return for the liberalization of the services markets abroad. My analysis of the government procurement negotiations indicates that vested interests of economic actors inhibit cross-sectoral bargaining.

**A Proposal for a New Bargaining Design**

**Bargaining for Concessions**

The empirical findings of my study suggest an institutional reform of the current bargaining mode that may promote accord in trade negotiations. At present, the problem appears to be that the scope of a concession (on a domestically sensitive issue) is too broad because of the reliance on multilateral bargaining, MFN treatment, and a formula approach. Distributional goals can be best achieved in bilateral item-by-item bargaining, so the return to bilateral procedures and item-by-item negotiation seems to be a promising solution to the current stalemates.\(^{172}\) There are two interrelated problems attached to this proposed change that may render it counterproductive in the long run: the enforcement problem that I have demonstrated to be present in bilateral bargaining, and the chance that the world trade regime will be locked in at some future point in time because of unwillingness to liberalize further.

I have shown in my thesis that the pursuit of distributional objectives in purely bilateral negotiations comes at the cost of creating an externalized enforcement problem, which in turn renders bilateral bargaining problematic. This enforcement problem must be addressed by other means than MFN treatment because the latter is part of a problem, and not part of the solution. I have shown in my thesis that clustering of multiple bilateral bargains is a viable instrument to keep control on the externalized enforcement

\(^{172}\) There is good reason to believe that concerns about the domestic consequences of further liberalization hinder further progress. However, the arguments I make in the following section are not contingent on this particular assumption. Whatever the political actor’s specific motivation for the pursuit of distributional goals is, it can hardly be satisfied in multilateral bargaining.
problem. On the basis of my findings, I consider it indispensable to hold purely bilateral bargains simultaneously. Clustering would not actually involve any change in the current bargaining design because simultaneous negotiations have been the rule since the foundation of the GATT in 1947. Moreover, my analysis of the negotiations on government procurement highlights that simultaneous bilateral bargaining in the absence of MFN treatment may result in an agreement.

One reason why bilateral bargaining became more difficult in the GATT of the 1950s was that the negotiations increasingly turned to issues that were more domestically salient than those items the GATT members negotiated about in their first meetings (Curzon 1965; Kock 1969). As I have mentioned above, the domestic salience of certain issues is also a problem at the current Doha Round. For this reason, the switch to pure bilateralism would not be sufficient to resolve the deadlock in the negotiations. Countries would probably focus on the less domestically controversial issues and eschew any substantial concessions on salient items. In order to constrain selective bargaining, countries should agree on a bargaining benchmark at the outset of the negotiations, e.g., an average cut of tariffs on manufactured goods of 40 percent. It would be up to the countries to make concessions in purely bilateral bargaining that add up to the prespecified bargaining goal. In addition, one may stipulate a minimum reduction that needs to be made on all items. This procedure will make it impossible to circumvent concessions on domestically salient items.

Of course, this approach will eliminate the problem of selective concession-making only at the expense of problems of agreeing multilaterally on a benchmark at the beginning of a trade round. A bargaining goal that can be easily achieved in selective bargaining will not contribute much to liberalization, i.e., it will be difficult to agree on an ambitious bargaining goal at the outset. The negotiations about a multilateral formula at the Kennedy Round, and other trade rounds thereafter, highlight the difficulties of agreeing on bargaining goals at the beginning of the trade talks. It should be clearly acknowledged that no institutional design fully eliminates the problem of selective bargaining. I think that my proposal provides a reasonable middle way between the two available alternatives. On the one hand, it is more rigid than simple pure bilateralism, since the bargaining benchmark limits the degree of freedom to engage in selective bar-

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173 The same holds for an externalized enforcement problem that derives from MFN treatment (Pahre 2001b). As I explained above, however, MFN treatment is part of the problem and not part of the solution.
gaining. On the other hand, my approach is more flexible than a formula approach, because countries can decide how they want to meet the bargaining goal. Actually, my approach would not be entirely new for bargaining in the WTO, because a similar bargaining mode was applied at the agricultural negotiations at the Uruguay Round.

It may happen at some point in time that pure bilateralism will open the way for a return to multilateral negotiations in the future. Reciprocal liberalization creates positive feedback effects from the perspective of political actors. Those economic actors that benefit from liberalization increase their support for political actors and render further liberalization feasible (Bailey et al. 1997). Moreover, the opposition of import-competitors to liberal trade may decrease with increasing liberalization (Hathaway 1998). Both feedback effects might render it possible to cooperate multilaterally after some liberalization has been achieved through pure bilateralism (cf., Baldwin 2006b; Kono 2002). However, the experiences made in the negotiations on manufactured goods at the Uruguay Round show that this situation will not necessarily occur. All countries, except the United States, wanted to apply a formula approach to the already low tariffs on manufactured goods. The United States still maintained few peak tariffs that it didn’t want to make subject to a formula cut. The United States kept the upper hand and tariffs on manufactured goods were negotiated in bilateral item-by-item negotiations (Croome 1999; Winters 1990). This case highlights the problems that can arise if countries are allowed to exempt certain items from concession-making, emphasizing the need to specify bargaining benchmarks and minimum concessions at the outset.

One further important feature of a new bargaining design is the explicit understanding that no agreements will be signed between two trade rounds. This stipulation is necessary in order to avoid the externalized enforcement problem that is created in sequential bargaining in the absence of MFN treatment. The probability of unhampered trade wars as they occurred in the nineteenth century and the first half of the twentieth century seems to be smaller nowadays because of an increasing trend toward the legalization of trade relations and the commitment to the WTO dispute-settlement mechanism (cf., Conybeare 1987; Goldstein and Martin 2000; Kennedy and Southwick 2002). There is the risk, however, that we will see a chain reaction in which one preferential trade agreement (PTA) gives rise to another so that bargaining in the WTO becomes less important to the contracting parties (cf., Lazer 1999; Mansfield 1998). Actually, the steady expansion of regional agreements, by far most of which are bilateral, already seems to have triggered a chain reaction (cf., Mansfield and Milner
Countries respond to the conclusion of PTAs by signing PTAs on their own that compensate for the adverse distributional effects of foreign treaties (Mansfield 1998). Many scholars consider PTAs *stumbling blocks* for future (multilateral) liberalization (e.g., Andriamananjara 2000; Tussie 1998a, 1998b). The opposite perspective conceives of PTAs as *stepping stones*, i.e., as conducive to trade liberalization (e.g., Ethier 1998; Herrmann-Pillath 2006a). Recent research emphasizes that the effects of PTAs are ambitious. They can be, depending on the scope conditions, conducive or detrimental to multilateral liberalization (Kono 2002). PTAs are now perceived less as a threat to liberalization than in the past (cf., Bagwell and Staiger 1997; Bhagwati 1991). Nonetheless, the existing research indicates that the conclusion of PTAs is not without risk. They potentially hinder progress in international cooperation in the long run by diminishing the incentives for further cooperation (Andriamananjara 2000). Simultaneous bilateral bargaining does not suffer from this problem. Furthermore, it is occasionally argued in the literature that the spread of PTAs may also be a consequence of problems of achieving cooperation in the world trade regime (Ethier 1998; Freund 2000; Mansfield and Reinhardt 2003). A reform of the bargaining mode in the WTO might reduce the incentives to form PTAs enough that they cease to be a potential threat for cooperation in the world trade regime.

Clustered bilateral bargaining best allows countries to achieve their distributional goals, but some countries may be less satisfied with the overall bargaining outcome achieved at a trade round than others. Because of this, it seems reasonable to conduct trade rounds more regularly than has been the case in the past. In the history of the GATT and the WTO, the initiation of new rounds can be traced back to the dissatisfaction of some countries with the results achieved at the last round. When these states insisted long enough, a new round was launched some years after the end of the preceding round. This observation highlights that dissatisfied countries were able to initiate new rounds eventually, but they were always uncertain about when the negotiations would begin. It has been shown in the literature that the reduction of uncertainty is important in trade cooperation (Rosendorff and Milner 2001). The specification of a date for the start of new negotiations at the end of a current round would reduce uncertainty by putting the WTO negotiations on a more regular basis. This procedure would diminish the uncertainty of dissatisfied countries about the next opportunity to negotiate a more favorable deal. Such a renegotiation provision would probably reduce the incentives to conclude PTAs between rounds, contributing to keeping the WTO rounds as the exclusive
7. Conclusion

forum of trade negotiations. Moreover, this renegotiation provision would provide the WTO members with sufficient flexibility because the time between rounds can vary from round to round.

One final question that needs to be addressed is the handling of asymmetries in bilateral bargaining (Kim 2004). Developing countries have correctly lamented that the outcomes of past trade rounds yielded asymmetric benefits for developed countries because of the asymmetric distribution of bargaining power. If one wants to put the negotiations in the world trade regime on track again, one needs to prevent the reappearance of asymmetries in bilateral bargaining. The formation of groups involving countries that share similar interests is a means to evaporate the imbalances in bargaining power (cf., Costantini et al. 2007; Narlikar and Odell 2006). A couple of countries have formed such coalitions during the last two decades (cf., Higgott and Cooper 1990), so one precondition for the reform of the bargaining mode is fulfilled already. Bilateral bargains involving a coalition on one or both sides of the table will be more complicated than ordinary bilateral negotiations because the coalition members have to agree internally on a bargaining strategy (cf., Meunier 2005). At the same time, the formation of coalitions will reduce the number of actors that have to bargain with each other, so the overall transaction costs should not be substantially larger in bargaining between coalitions, if at all.

There is another advantage of coalition formation in bilateral negotiations. In the first trade rounds, small countries could rarely participate actively in concession-making because they had too little to offer, according to the standards of the principal supplier rule (Hoekman and Kostecki 2001). In 1956, countries were allowed to group together in order to jointly acquire principal supplier status (GATT 1956a). The principal supplier rule lost importance with the trend toward multilateral procedures since the Kennedy Round. My suggested application of pure bilateralism does not require the reintroduction of the principal supplier rule because it was introduced as a safeguard against the enforcement problems arising from MFN treatment. MFN treatment is not part of my bargaining mode, but the formation of groups is necessary nonetheless. A small country cannot offer enough concessions on its own, but a group of small countries can build a package of concessions that is interesting for a large country (cf., Costantini et al. 2007).
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Bargaining about Rules and Standards

A *club-of-clubs approach* (Lawrence 2006) could be taken in cooperation about standards and rules. The club-of-clubs approach takes into account that some contracting parties may be unwilling to agree to multilateral rules. The overall club is the WTO, which provides the framework for multiple clubs, each of which deals with a separate issue. Each club includes those countries that subscribe to the rules that have been previously negotiated multilaterally.

Lawrence proposes to let all interested WTO members participate in the negotiations, even if one knows in advance that some countries will not become members of the club (2006, 828-829). This suggestion deviates from the practice of the government procurement (GPA) negotiations inasmuch as non-subscribers to the GPA were not allowed to participate in the renegotiations (Reich 1999). The GPA approach may seem intuitive, but I think that Lawrence’s suggestion bears more merit. It could be seen that the coverage of the GPA in terms of parties to the agreement is relatively small. My analysis of the GPA negotiations indicates that this is a consequence of exclusive negotiations on the Tokyo Round GPA. The parties to the Tokyo Round GPA had agreed on rules that satisfied their needs, but deviated considerably from the interests of the outsiders (Lawrence 2006, 829). The Tokyo Round GPA marked a focal point for future negotiations that was relatively far away from the preferences of non-subscribers. This gap between their preferences and the focal point made it unattractive to join the GPA at a later stage. In this view, the exclusive negotiations held at the Tokyo Round predetermined to some degree that non-subscribers to the Code would remain outsiders at later trade rounds. Of course, the negotiations will be more difficult under inclusive bargaining because of the large number of participating countries, but I think this disadvantage is acceptable compared to an exclusive bargaining approach that decreases the probability of expanding membership in the future.

To elaborate the club approach further, I now need to distinguish between rules that allow for discriminatory treatment, e.g., rules on government procurement, and rules that are necessarily multilateral, e.g., subsidies.\(^{174}\) When discrimination between members and non-members is possible, countries *should* be allowed to discriminate in order to avoid free-riding by the outsiders. In addition, favorable treatment of subscribers to the agreement sets an incentive to become a party to the agreement at a later point.

\(^{174}\) Lawrence does not make this distinction, neglecting an important issue in the implementation of the club approach.
in time. The inclusive bargaining approach that I suggested above ensures that the costs of joining the club at some point in time, in terms of the necessary changes in domestic rules, are smaller compared to the exclusive bargaining approach. This means that inclusive bargaining should be combined with pure multilateralism, i.e., the non-application of the multilateral rules to non-subscribers.

Differential treatment of subscribers and non-subscribers may be infeasible in some cases due to the nature of the issue in question. In this instance, outsiders can free-ride on the club members’ adherence to the multilateral rules. For example, outsiders would benefit asymmetrically from a club agreement eliminating any form of subsidies. Free-riding is difficult to prevent under non-excludability with conventional means because defection and sanction against one country will harm free-riding and cooperative countries alike (Axelrod and Keohane 1985). However, cooperation on non-excludable goods can be enforced by creating a link to cooperation covering an excludable good (Barkin 2004). More specifically, club members that subscribe to multilateral rules should be allowed withhold concessions to non-subscribers in an issue area where discrimination is possible. The effect will be that the benefits outsiders receive from free-riding will be matched by losses that derive from unfavorable treatment by club members in another issue area. Club members are enabled to pursue their distributional goals, while outsiders do not reap a net gain from free-riding.

Lawrence argues against cross-sector linkage because of worries that new issues will only be only introduced into the WTO as a means for cross-sector enforcement. Such enforcement-driven expansion of the WTO would dilute its prime objective and weaken it (Lawrence 2006, 830-831). However, Lawrence neglects the problems of cooperation on genuinely non-excludable goods by taking the GPA as the template for his club-of-clubs approach. In my eyes, it seems easier to avoid and prevent, if necessary, the enforcement-driven expansion of the WTO than enforcing compliance without cross-sectoral linkage. Of course, it will be extremely difficult to match the benefits of free-riding on multilateral rule-setting by non-club members with the withdrawal of concessions in another issue area. However, the problems of achieving reciprocity in cooperation on NTBs have bedeviled trade cooperation for decades now. The problem of establishing cross-sectoral reciprocity is neither unique to my account of the club approach, nor does it necessarily make cooperation impossible.

In sum, I propose multilateralism without MFN treatment for the negotiation of rules and bilateralism without MFN treatment as the mode for negotiating concessions. Bilat-
eralism, embedded in the institutional devices that I described in this section, may play an important role in future trade cooperation. In consideration of the fact that bilateralism has been the dominant form of cooperation for most of the history of international trade, a good part of the answer of how to handle commercial relations in the future might lie in their past.
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