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«The intellectual origins of WTO : Hull's and Bidwell's views on organizing the international trade»

Auteur

Claude SCHWOB

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Faculté des sciences économiques et de gestion

Pôle européen de gestion et
d'économie (PEGE)
61 avenue de la Forêt Noire
F-67085 Strasbourg Cedex

Secrétariat du BETA

Géraldine Manderscheidt
Tél. : (33) 03 68 85 20 69
Fax : (33) 03 68 85 20 70
g.manderscheidt@unistra.fr
<http://cournot2.u-strasbg.fr/beta>



Nancy-Université
Université Nancy 2



**The intellectual origins of WTO: Hull's and Bidwell's views on organizing the
international trade**

Claude SCHWOB
BETA – UMR 7522 CNRS
University of Strasbourg
Pôle Européen de Gestion et d'Economie
61 Avenue de la Forêt Noire
F 67085 STRASBOURG Cedex
E-mail: schwob@unistra.fr
schwob@cournot.u-strasbg.fr

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Abstract:

Unlike the monetary and financial international organizations which were born during World War II and in the immediate post-war years, the WTO was created only in 1994. The GATT negotiated in 1947 was initially conceived as a temporary agreement while waiting for the creation of an International Trade Organization, which was finally never created. Nevertheless as like as in financial matters, some thinkers have built projects on such an organization before and during World War II. Among them there are two Americans: Cordell Hull and Percy Wells Bidwell. This paper compares both projects and investigates whether it can be said that Hull was the spiritual father of the WTO as some of the Cordell Hull Institute papers claim it.

JEL Classification: *B10, B20, F02, F13, F53.*

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Theory of International Organizations, Bilateralism, Multilateralism, History of International Organizations, International Trade Negotiations, International Trade Organization, World Trade Organization

Cordell Hull is sometimes considered the spiritual father of the WTO (Hagel, 2003; Curzon Price, 2004; Dam, 2004). As early as 1916, when he was a Representative of Tennessee, he suggested the creation of a permanent organization in charge of international trade topics to Secretary of State Lansing. But this project went unnoticed. Appointed Secretary of State by F.D. Roosevelt in 1933, Hull held this office at a stretch until November 1944. His policy and particularly his involvement in the creation of United Nations earned him the Nobel Prize of Peace 1945. Although the Secretary of State was given the responsibility of the American trade policy during the first years of his office, Hull had not been in position to achieve his seminal project. During World War II, thinking about such an organization was left by the Department of State to the Council of Foreign Relations (CFR) care. Famous economists like A. Hansen and J. Viner took part in that structure. However, they did not mainly devote their thoughts to an international organization specifically intended for international trade. The authorship of a solidly structured project of an International Trade Agency was due to another member of the CFR: the economist Percy Wells Bidwell. He wrote his project in 1942 and forwarded it to the Department of State. His thoughts on these issues have been developed in other following papers. Together with the British ones Bidwell's proposals were used as a basis for the negotiations engaged in 1943 by Americans and British on ruling international trade relations.

This paper aims at comparing Bidwell's and Hull's respective stands on those matters. In order to preserve its historical consistency and insofar as it intends to go back to the theoretical sources of the WTO, this paper mainly concentrates on the writings, statements and actions of both those figures preceding the negotiations concretely engaged from the end of 1945 on international trade topics. Those negotiations ended up in the Havana Charter for an International Trade Organization (1948). But like every agreement negotiated at a global level, this charter was a complex web of compromises because in order simply to exist it had to take into account numerous divergent interests. From then on it escapes to a pure history of economic thought inquiry on the intellectual foundations of the WTO.

1 – The origins and contexts of Hull's and Bidwell's projects

The period of Roosevelt's presidency was noteworthy for economists stemming from an academic background. In order to provide food for the Administration's thought, Roosevelt tended to surround himself with academics (Kirkendall, 1962) even if he did not always

decide in favour of their ideas. As regards trade policy, the Committee on Trade Agreements (CTA) showed this new tendency. This structure was created after passing the Reciprocal Trade Agreements Act (RTAA) designed by Secretary of State Hull. The RTAA (1934) was an amendment of the Smoot-Hawley Tariff Act (1930). She enabled the President to take a temporary departure from the detailed control by Congress on treaties he would like to sign, in particular as far as commercial matters were concerned, and from the requirement that those treaties should be carried by a majority of two thirds at the Senate¹. Administration was offered the possibility to bilaterally negotiate modifications on up to 50% of Smoot-Hawley tariffs on condition that it was getting sufficient reciprocal concessions from commercial partner countries of the United States. In that context, the CTA had among others to assess the impact of bilateral trade agreements to be negotiated and especially to pinpoint which sectors of the American economy would benefit or would be victim of them. Hull deliberately chose some young academic economists² favourably disposed towards liberalizing the American trade policy as members of the CTA (Eckes, 1995: 143) because they seemed to him impervious to the influences of domestic politics and of special interests³. The RTAA reoriented in some ways the American trade policy (Schwob, 2008; 2009).

However, long before he was appointed as Secretary of State, Hull acted as a pioneer when championing the creation of an international structure in charge of trade topics. This he first did in February 1916 in a letter he sent as a Representative of Tennessee to Secretary of State Lansing (Hull, 1916; *cf.* also Hull, 1948: chapter 7 and p. 356). But the latter perceived Hull's project as untimely and it did not carry through. Hull unsuccessfully repeated his proposals in an address to the House of Representatives in July 1916. In 1933, Hull was appointed Secretary of State by President Roosevelt and he held this office during the four successive mandates of the latter. Health problems led him to resign in November 1944, a few months before Roosevelt died. That is one reason why Hull did not participate in the trade negotiations which began at the end of 1945 and which ended in 1948 with adopting the Havana Charter for an International Trade Organization (ITO). During Hull's office as a Secretary of State, thinking about a future international trade organization did not begin to

¹ About this old procedure, Hull (1948: 252) wrote: "...no American Senate had ever approved a trade treaty negotiated by the Executive which materially reduced tariffs, especially when negotiated without prior Congressional authority. Such a tariff reduction proposal was always beaten outright or filibustered to death after the protected interests brought pressure on their Congressmen".

² Amongst the members of the CTA, the economist Harry Hawkins inspired some aspects of Hull's trade policy. A. Hansen and H.D White were also members of the CTA.

³ The identity of the CTA members was held secret during twenty years by the Administration in order to shelter them from the influence of economical and political lobbyists (Eckes, 1995: 143).

develop mainly within the Department of State. According to Aaronson (1991) the latter was understaffed and that is why it was unable to take this responsibility.

Some works emerging in the United States on such topics before it engaged in World War II have been produced by the Council on Foreign Relations (CFR). This private and bipartisan structure was founded in 1921 and brought together among others businessmen and academics stemming from internationalist circles⁴. The Carnegie Endowment for International Peace and the Rockefeller Foundation gave it financial support and Foreign Affairs became its communication organ⁵. But the CFR gradually developed more and more relations with the Department of State. From September 1939, the CFR became a think tank of the latter dedicated to the American post-war projects. In December 1939, the CFR created the War and Peace Studies project (WPS), which consisted of many work groups, and among them the Economic and Financial Group (EFG). A. Hansen and J. Viner jointly took its chairmanship. The theoretical conceptions of the two economists were different, but both enjoyed large recognition in the community of American economists because everyone had soon been chairman of the American Economic Association. An explanation of the developing links between the EFG and the Department of State lay in the double membership of L. Pasvlosky. Stemming from the Brookings Institution, member of the CFR since 1938, he entered the Department of State in 1935 after having worked within the Department of Commerce. In February 1941 Hull appointed him Head of the Division of Special Research at the Department of State and in February 1942, he became one of Hull's Assistants Secretary of State. At this time, the WPS was enclosed to a vaster group, the Civilian Advisory Board, which had to report directly to Pasvlosky⁶ (Schulzinger, 1984: 81).

Such was the context in which P.W. Bidwell⁷, member of the CFR since the beginning of the 1930s, transmitted in august 1942 a project of an International Trade Agency⁸ to the Department of State. The reports of the CFR were unpublished at that time: they were working papers exclusively dedicated to its members. But Foreign Affairs, whose connections with the CFR have been outlined above, published in his 1942/43 instalment a paper in which

⁴ Schulzinger (1984: chapter 1) describes the process having ended up in the creation of the CFR.

⁵ Cf. Parmar (1999, 2000).

⁶ About Pasvlosky's contribution to reshaping the world economic order, Cf.: Goodwin (1998).

⁷ Percy Wells Bidwell (1888 – 1970) held a PhD from Yale University (1915). He taught there some times and later at Buffalo University, before joining the Carnegie Institution as a researcher. He was Director of Studies at the CFR a large part of the period running from 1948 to 1958. He also was a member of the US Tariff Commission (Lissner, 1972).

⁸ The first thoughts developed by Bidwell on such topics date back to 1938, when together with A. Hansen, J.T. Shotwell, J. Viner and others he was a member of an experts group reporting to the National Peace Committee and which proposed the creation of an International Commercial Organization (Bidwell, 1945: 29 – 30).

Bidwell presented his thoughts on the international trade governance. Owing to the close dates where these two documents have been written, it can reasonably be thought that the Foreign Affairs paper appropriately reflected the content of the August 1942 project (Nerozzi, 2007). The American Economic Review published in 1944 a paper where Bidwell, signing as a CFR member, took again his 1942 proposals and developed his ideas in favour of a deep reorientation of the American trade policy after the end of World War II. These two publicly issued documents, respectively to a large readership and to a more specialized one, can be considered personally engaging their author more than confidential papers meant for limited circles. Finally, within the period to which we restrict our paper, Bidwell submitted in February 1945 a paper, in which his ideas on the same topics were developed, to the Committee on international economic policy.

Bidwell's 1942 CFR working paper, jointly with a text presented by the British part and inspired by Meade's 1942 proposals, served as a blueprint for the informal negotiations between Americans and British held at Washington in September and October 1943. Those meetings resulted in a background paper listing the points of agreement and disagreement between the two delegations. This document is known in the United Kingdom as the Washington Principles⁹. But from 1943, just when these more or less formal commercial discussions were beginning with the British, and until the end of his office, Hull opposed to the progress of this case¹⁰.

2 - The aims of international commercial negotiations

Both Hull's and Bidwell's projects have in common to have been thought up in world wars contexts. And both had been preceded by some episodes of revival of protectionism, even if the reasons of the increasing protection in the 1879 – 1914 years were different from those of the 1920's – 1930's. Hull and Bidwell agreed that the final purpose of their respective projects was peace in the world. And explicitly or implicitly both held protectionism partly responsible for the two World Wars, which broke out during the 20th century (Hull, 1948, 81, 84; Bidwell, 1942/43: 297, 307; Bidwell, 1944: 343). As economic matters are concerned, this general purpose had to be translated into peaceful and more balanced commercial relations. To these ends the appropriate intermediate goal was to free international trade relations by

⁹ Extracts of this document are given in Pressnell (1987: Appendix 13).

¹⁰ Conflicts within the British government during the year 1944 also contributed to delay the negotiations. Cf. Pressnell (1987, 129 – 137).

gradually withdrawing the different tariff and non-tariff barriers to trade [*Cf.* proposals (a) to (l) in Hull (1916) and proposals (1) to (5) in Bidwell (1944)].

The two men also agreed to find out one root of the international crisis of the early 1930s in trade imbalances. They pinpointed the foreign trade surplus of the United States, especially the bilateral one with United Kingdom. Owing to those American surpluses, the countries indebted to United States were in financial straits to repay their debts, especially insofar as the international credit distribution was strongly impeded during this period. As a matter of fact, in that global structure of debts inherited from World War I, the protectionist trend of the American trade policy, particularly after passing the Fordney – McCumber (1922) and Smoot - Hawley Tariff Acts (1930), reinforced the difficulties for commercial partner countries of the United States to get dollars (Bidwell 1932: 392). Bidwell added that the American tariff levels hindered the exports necessary for the recovery of European countries after World War I (Bidwell, 1930: 14). From an analytical point of view, commercial questions were therefore a priority for both men because they were at the origin of financial ones. This emerged from Hull's 1916 proposals, where financial problems were only brought up at the end of the text and were showed as subordinated to international trade matters [Hull, 1916: proposition (m)]. But Hull had been trained as a lawyer, not as an economist, and owing to their technicalities, financial questions were probably unfamiliar to him. Besides, during Hull's mandate, the Secretary of State was not in charge of monetary and financial questions, which were part of competence of the Secretary of Treasury. Implicitly Bidwell laid the stress on commercial policies as a means of solving the post-war world economic problems when criticizing many economists for relegating trade policies to background or even for neglecting them (Bidwell, 1942/43: 297 – 298). One year later he explicitly advanced the logical precedence of commercial matters when he wrote: “We shall certainly also need a multilateral agreement for exchange stabilization. But the expansion of international trade will be a necessary condition for making these other methods effective.” (Bidwell, 1944: 344). And this view had already been claimed before, when Bidwell assessed the respective role of the international agencies proposed by other economists, among which an international organization for capital investment and another for controlling monetary and currency policies: “The activities of each of these agencies cut across the field of international trade; its success or failure will depend in large measure on the commercial policies adopted by the leading trading countries.” (Bidwell, 1942/43: 310)¹¹. Bidwell supported the first initiatives for

¹¹ Incidentally, it is worth noting that Hull and Bidwell had a different interpretation of the crisis and of the ensuing global economic problems from that of the British economists Keynes and Meade, which took part in the international negotiations held during the 1930s and during World War II. Keynes held the liberalization of international trade and commercial multilateralism as of secondary importance (*cf.* Keynes, 1942; 1944). Meade

trade policies liberalization engaged by Hull at the beginning of his mandate of Secretary of State. As soon as December 1932 he argued for tariff bargaining when speaking at the American Economic Association (Bidwell, 1933) and later he continued to assess the first stage engaged by Hull as a fundamental one (Bidwell, 1944: 344, 353).

Furthermore Hull and Bidwell shared some elements of a common interpretation of the domestic economic situation in America after World War I and in the recession context of the early 1930s in which the leading problem was employment. As soon as May 1929, i.e. five months before breaking out the Wall Street crash and the ensuing world crisis, Hull reported this problem before the Representatives and linked it to the American production surpluses (Hull, 1948: 133). Owing to the high productivity and huge resources of the United States, their production potential was much superior to domestic demand. As a consequence, domestic employment could not be defended through protection devices against imports. And Bidwell (1932: 400) agreed. Those surpluses had to find an outlet abroad (Hull, 1948: 133) and tariff cuts throughout the world were the *sine qua non* condition to absorb them. Yet, according to Hull, the trade policy pursued by United States had traditionally been marked by a strong protection except after passing the Underwood - Simmons Tariff Act (1913), which substantially reduced the protection of the American markets. The protection had been reinforced successively by the Fordney - McCumber (1922) and the Smoot - Hawley (1930) Tariffs and non-tariff protection devices had been increasingly used. Bidwell (1939, 1944) listed the latter in the fullest detail. And Hull ascribed to United States the leading role in spreading increasing protectionism, thus shifting the crisis throughout the world (Hull, 1948: 126 – 127; 355). Bidwell (1932: 395 – 396) agreed with Hull on that point and went even further when writing: “The rates of duty fixed in the Hawley – Smoot Tariff, which capped the climax of a seventy-years upward trend, were not substantially reduced in the thirty-odd trade agreements negotiated since 1934. We built our tariff wall high, and we plugged all the loopholes by a detailed system of administrative regulations which were rigorously enforced.” (Bidwell, 1944: 340). Anyway, for both Hull and Bidwell, the protectionist trend of the US trade policy hurt long-standing American interests¹².

As a consequence of their common interpretation of the international crisis and of the domestic situation in the United States, the two authors agreed giving priority to reshaping the American trade policy. Both claimed that, owing to the unquestionable economic leadership

considered his project of an International commercial union as a complement to Keynes’s International clearing union project. Nevertheless, Meade gave a greater importance to the idea of a worldwide and multilateral commercial negotiation than did Keynes (Schwab 2007).

¹² Cf. for example (Bidwell, 1932: 25 – 26).

of the United States after World War I, the American trade policy should no more be decided exclusively according to purely national requirements (Bidwell, 1930: 21) but had to be given fresh thought so as to take into account its effects throughout the world. And both thought that American exports could grow only if imports were growing to¹³.

However Hull's ideas on trade policy were not completely disconnected from strictly national interests. Hull thought the liberalization of trade firstly as a means of rationalizing inefficient sectors of the American economy by displaying them to foreign sale's competition (as some members of the CTA like Hansen and Viner suggested it), secondly as a means of furnishing the American consumers with foreign goods not challenging domestic substitutes, and thirdly as a means of increasing their purchasing power. This is why Hull came down in favour of a selective opening to foreign competition of carefully targeted American markets (Hull, 1948: 374). And he chose the predominant exporter procedure of negotiation. The latter was suggested to him by Hawkins, which explicitly endowed it with the virtue of preserving the negotiation power of the United States (Eckes, 1995: 96). And Hull (1948: 362) added: "In this way we could get the maximum tariff concessions for our own exports...". This is why we conclude that Hull considered the different existing protection devices a means serving a negotiation strategy whose target was not first of all to engage his country in the way of liberalizing the international trade.

Such ideas still marked by some dominant national views were not present in Bidwell's thought. He claimed himself that the American trade policy before World War II had kept an overly protectionist trend (Bidwell, 1944: 353). Of course, he thought the United States had a national advantage to increase imports insofar as it contributed to an increase in the purchasing power of American citizens (Bidwell, 1944: 353; 1945: 61). But he also considered that they should give up the vision they still had before World War II and which can be qualified as mercantilist in some way: "We must abandon the notion that exports make a peculiar contribution to national wealth, recognizing them merely as a means whereby we procure imports." (Bidwell, 1944: 353). He accepted that this dated view had some reasons to exist in the context of the deflation and recession ensuing the 1929 crisis, but only in that specific context (Bidwell, 1944: 341). This situation was out of date in 1944 and it seemed to him it would be still more after the end of World War II. The new trade policy he thought should first of all intend to reduce American trade imbalance (Bidwell, 1944: 344) in order to make it possible for the United States to find out a new equilibrium in the world trade relations. He explicitly

¹³ On that point Hull's positions are inspired by the CTA (Eckes, 1995: chapter 5). Some of its members even suggested increasing US imports faster than exports.

evoked as the major stake the optimal allocation of world resources and not mainly of the American ones (Bidwell, 1942/43: 298; Bidwell, 1945: 5; 8). And he thought that Hull's efforts to reshape the American trade policy in that way have been insufficient and had to be deepened (Bidwell, 1945: 13).

3 - The international negotiation technology: bilateralism or multilateralism?

In his 1916 seminal text Hull never used the word "multilateralism". Nevertheless, he confirmed in his Memoirs that his project from this time on lay within such a conception of commercial negotiation and he reminded that during the 1920s he had frequently defended this option before the Congress (Hull, 1948: 356). But Hull gave up this idea for that of bilateral agreements implementing the unconditional most-favoured nation principle¹⁴. The reasons why Hull did change his position in comparison to the text of 1916 are examined now.

According to Eckes (1995: 94), Hull began to express his preference for bilateral trade agreements as soon as 1929 in an address to Representatives. But on that issue he was in a minority including in his own party¹⁵ and so he had to give up this idea. In an address to the Senate on the 5th of February 1932, while still supporting a permanent world economic congress, he asked the President to be given the authority to negotiate reciprocal tariff cuts (Hull, 1948: 146), but without more success. The credibility of the bilateral option grew after the failure of the talks at the London economic and monetary world conference (1933). Hull went to London believing to be given free hand by the President to negotiate multilateral tariff cuts. The reasons while these talks ended in failure are many. But as far as tariffs are concerned, Hull held as partly responsible the ambiguousness of Roosevelt's position linked to the influence of the nationalistic fraction of people around him, and even the careerism of some of his own colleagues¹⁶. From that failure Hull concluded that public opinions in the

¹⁴ This principle stipulates for example that members of a bilateral tariff reduction agreement extend the duties cuts to the same products imported from third countries not discriminating against them.

¹⁵ Eckes (1995, p. 67) reminds that bilateral agreements were much debated in the United States at that time. This view dated back especially to the agreement signed with Canada in 1854, which had been perceived in some American circles as particularly unbalanced to the detriment of United States.

¹⁶ Chapters 18, 19 and 26 of Hull's Memoirs gave the details of its own version of the facts. He considered he had been put in a difficult position at the London world conference by Roosevelt's choice to content himself with the traditional validation procedure of commercial treaties by the Congress: "A Secretary of State at the head of a delegation to a great world conference is under heavy handicap if his hands are thus bound." (Hull, 1948: 257). He put forward some doubts about what Roosevelt really intended and seriously implicated his colleague Moley: "I often wondered later whether the President gave him [i.e. Moley] permission expressly or by mere silence thus to negate my whole plan." (*Ibid.*: 353).

different countries, including the United States, did not approve of multilateralism. As a consequence, the bilateral method of international negotiation seemed to him the only pragmatic way, even if less ambitious than the multilateral one, of achieving tariff cuts throughout the world (Hull, 1948: 356). Even before the end of the London Conference, but when failure was still patently obvious, he laid out this idea to some members of the American delegation (*Ibid.*: 266). And as soon as he got back to United States, he fought in order to get a modification of legal provisions relating to tariff negotiations¹⁷. This fight ended up in 1934 with enacting the Reciprocal Trade Agreements Act whose authorship is clearly to be ascribed to Hull. This international trade negotiation frame used from 1934 proved some efficiency, seeing that between 1934 and 1945 about thirty bilateral commercial treaties had been signed by United States. However they sometimes got slender economic results or were much debated (Bidwell, 1944; Eckes, 1995). But the comparative virtues of the various negotiation technologies are not the sole explanations of Hull's marked preference for the bilateral method.

From 1934 and until the end of his Secretary of State mandate, Hull himself did not take any possible step to contribute towards the international permanent congress in charge of multilateral commercial matters he hoped and prayed in 1916 and at the beginning of the 1920s. One explanation is given by Hull himself: from 1943, the Department of State was no more in charge of international economic negotiations (Hull, 1948: 1654) even if it still was a party to them. Another explanation is that Hull's bad health did no more allow him to get involved in those negotiations (Dam, 2004). Nevertheless from 1943 and until the end of his mandate, Hull was opposed to a multilateral approach of commercial negotiation just when more or less formal discussions with Britain were engaged at the end of 1943. The diaries held by the British economist J. Meade, member of the Law Mission which went in Washington (September - October 1943), testimony on Hull's cast of mind at this time. Meade reports the words held to him by J. Fuqua, a member of the American delegation: "He said that Hawkins was a courageous and disinterested man who was running a terrific risk with his personal career in taking the grand line he is taking in favour of a multilateral approach to Commercial Policy, because Secretary of State is an ultra-cautious man. The implication of this was, of course, that Hull is extremely unconvinced of the multilateral approach, and that there may be real trouble when our joint report on Commercial Policy goes to higher authority in the USA." (Meade, 1943: 139)¹⁸. This remark is not a

¹⁷ Hull had been hoping the President would try to obtain this modification before the London conference. But the President failed to meet Hull's expectation (Hull, 1948: 251).

¹⁸ The Washington Principles' Section on Commercial Policy (1943) was very cautious on multilateralism and stated discrepancies about it between the American and British delegations.

trivial one if we recall that Bidwell's and Meade's projects, both explicitly multilateral in mind, were used as bases of the discussions held at Washington with the British at the autumn 1943. It is no less, when we remind that in-house discussions relating to "... an international trade organization were developed by a series of interdepartmental and interagency committees meeting continuously in Washington from the spring of 1943 to the summer of 1945 under chairmanship, successively, of Myron C. Taylor, Dean Acheson, and William L. Clayton, the Assistant Secretaries of State." (Wilcox, 1949: 38)¹⁹. Finally, it is no less when we recall that Pasvlosky, one of Hull's nearest collaborators, clearly opted in favour of a multilateral approach of commercial (and financial) negotiations in an official publication of the Department of State (Pasvlosky, 1942) and that he was a member of the American delegation to the Washington talks of 1943. Aaronson (1996) confirms Hull's great reservations about the future ITO.

But other facts can explain Hull's extreme caution towards the thoughts developing on commercial multilateralism in the United States and even within the Department of State itself. The first one is that the political circumstances during that period were not designed to promote the idea of an international multilateral organization in charge of commercial topics: 1944 was a year of presidential election and such projects gave cause for worry about employment in the country. Moreover, trade policy was soon a matter of rivalry between the Congress and the Administration and some people considered those projects unconstitutional insofar as they would imply giving up parts of the American sovereignty (Diebold, 1952). But we argue that there were also strategic reasons why Hull opposed himself to the multilateral approach at this time. One of the goals he was relentlessly striving towards, and Secretary of Treasury Morgenthau²⁰ as well, was dismantling the British imperial preferences system implemented during the Ottawa Conference of 1932. Rightly or wrongly Hull considered that it strongly harmed the American sales abroad²¹. Even if he thought that this system originated in the Hawley-Smoot Tariff Act (Hull, 1948: 525), he held the British co-responsible of the rise in protectionism of the early 1930s. In that context, it can be thought that the bilateral mode of negotiation was more fitted than the multilateral one to the ends the Secretary of State was pursuing. As a matter of fact, the former made it possible to negotiate separately with different commercial partners endowed with different interests, whereas the latter would have diluted specific Anglo-American matters into a vaster ensemble of global questions and

¹⁹ At the end of 1941, M. Taylor and D. Acheson have been proposed by Hull and named by Roosevelt as members of the Advisory Committee on Postwar Foreign Policy (Hull, 1948: 1632).

²⁰ Although the two men were sharing this goal, Hull did not value Morgenthau: he reports numerous intrusions of the latter within the areas of competence of the Department of State (Hull, 1948: 207 – 208, 902, 1073, 1379, 1676).

²¹ There was no general agreement in the United States on that issue. Cf. Glickman (1947).

would thus have offered grounds for an always strong nation, even when no more dominant, to deadlock the negotiation process for opportunistic or purely political reasons. Apart from their fears that third countries could take an opportunistic advantage from an Anglo-American agreement²² and that bilateral agreements between the United States and other countries could harm British interests owing to the impossibility to get all those agreements coordinated, British politicians feared that some self-governing members of the Commonwealth and Dominions would accept a cut in imperial preferences in return for American concessions²³ (Pressnell, 1988: 102). And they had some reasons for such fears. Firstly, during the Imperial Conference held in London (1937), the Dominions declared themselves in favour of revising some preferences in order to send a signal of their cooperative will to the United States (Schatz, 1970: 97). And during the 1942 – 1944 years, some Commonwealth countries showed themselves more in line with the American views on imperial preferences than with the British ones (Pressnell, 1987: 134 – 135; Meade, 1943: 142). In the second place, Hull did make no secret that the American government did militate in favour of a greater autonomy for the British colonies than Churchill would accept (Hull, 1948: 1478)²⁴. In his Memoirs he evoked the conflict between Americans and British on such matters and he tackled the independence of India (*Ibid.*: 1482 – 1497). In case of separate negotiations of the United States with some self-governing members of the Commonwealth and Dominions, the cohesion of the Empire would have been put in a difficult position and the desire of some Dominions to distance themselves from England would have been reinforced. Implicit in Hull's choice in favour of bilateral negotiations, the question of economic leadership in the world was obviously at stake and with it that of the British Empire's destiny after World War II. But Hull recognized that in the 1938 Anglo-American bilateral agreement the British resisted those American attempts (Eckes, 1995: 322 note 42). They resisted later too, when from May 1944, a majority of Commonwealth governments came round to the British stance on preferences (Pressnell, 1987: 135).

Finally, in his Memoirs, Hull recorded that at the moment where Roosevelt was dying, i.e. in April 1945, and when he himself had already resigned, he wrote an address to the Congress

²² The Anglo-American bilateral agreement concluded in 1938 was considered by Hull (1948: 529) as the most difficult to negotiate. It yielded some unquestionable results, but the latter were rapidly limited by the breaking out the World War II. It then has been taken over by other agreements, like the February 1942 Lend-Lease Agreement. Like other authors, Eckes concluded that the Anglo-American agreement had little economic results because political goals have finally had priority in the American diplomacy (Eckes, 1995: 152 – 153).

²³ Glickman (1947: 441) remembers that the Dominions were the first having asked a preferential treatment for their products by United Kingdom.

²⁴ Hull's hostile stand to colonial systems and their discriminatory methods was clearly claimed in his 1916 letter to Lansing. And he remembered it in his Memoirs (Hull, 1948: 85).

where he reminded that the RTAA was expiring on June 12 and asked it to be extended (Hull, 1948: 1721). Of course, not renewing the RTAA could have created conditions for returning to protection practices. Of course, that device had to be maintained urgently for lack of anything better. But even if he was weakened by health problems, many points are noteworthy in Hull's positions about trade policy matters as expressed in his Memoirs. Firstly, he never reminded that in-house discussions relating to an international trade organization had occurred since 1943, as well as informal negotiation with the British on this topic. Secondly he never did define his thoughts about the ITO negotiations which took up again since 1945 and which were succeeding on March 24, 1948, with signing the clearly multilateralistic minded Havana Charter, whereas at the same time he explicitly feared the American trade policy to return to the erring ways of the 1920s and the early 1930s (Hull, 1948: 1735). Those facts testify to Hull's maintaining his option in favour of bilateral commercial negotiations and his ultra cautiousness about multilateralism, in spite of the manifest changes which had happened in the world economical and geopolitical situations after ending World War II and in spite of the fact that the American delegation in the commercial negotiations clearly had taken the lead of the multilateral option from the end of 1945.

Unlike Hull, Bidwell took position without any ambiguity in favour of the multilateral approach of commercial negotiations. As soon as the early 1930s, he evoked a multilateral negotiation confining to tariff duties when proposing "...to invite all countries with whom we have unconditional treaties to conclude a new multilateral treaty by which concessions would be exchanged." (Bidwell, 1933: 145). The goal pursued here was to coordinate separately negotiated treaties. And even if he approved of Hull's bilateral commercial negotiations frame as a first step towards liberalizing the world trade, he severely judged the RTAA's efficiency after ten years' practice. On the one hand he thought it was an experienced fact that the bilateral agreements had produced pernicious effects on the American balance of trade: "The agreements were effective in stimulating exports, but their effects on our imports seems to have been negligible. Hence they tended to aggravate, rather than correct, the distortion in our balance of payments." (Bidwell, 1944: 344). He also thought that the expected ratchet effect in the world, which yet was one of the public goals of the RTAA, had been low. So the RTAA had not been able to deeply correct the trend of national trade policies throughout the world: "But it cannot be claimed that the Hull program accomplished a major and general reform in commercial policies." (Bidwell, 1942/43: 297). On the other hand, he considered that bilateralism would be out of time in the 1940s, because it would not be up to the task after ending the World War II, not to mention that the economic problems

would be really different in nature from the 1930s ones which the RTAA was presumed to solve: “The Hull Trade Program - the only instrument of American commercial policy now available - seems to me inadequate for the new task.” (Bidwell, 1944: 344). And as tariffs matters, Bidwell claimed: “It is my contention, however, that the Hull Trade Agreements Program offers no adequate means to accomplish on a sufficient scale the cut in American import duties.” (*Ibid.*: 345).

The arguments developed by Bidwell in favour of the multilateral approach were multiple. Firstly, it was evident to him that after ending World War II, the deficit of the British balance of trade would be greater than it was before. And in spite of the huge economic weight of the United States, developing bilateral commerce with the United Kingdom would not be sufficient to reduce that imbalance. The world trade liberalization only would be fitted to this goal. Secondly, the global scale of commercial problems being reinforced after ending World War II, bilateral negotiations managed separately and in sequence between pairs of countries would take much time and would be impossible to coordinate in their economic issues. Potentially they could be counterproductive with respect to the goal of expansion of the world trade (Bidwell, 1945: 26; 33). As a consequence, multilateral negotiations were the sole means of coordinating the trade policies of all countries, which were the *sine qua non* condition to obtain mutual confidence (Bidwell, 1944: 346; Bidwell, 1945: 35). In absence of the latter, each country would speculate on the other’s real intentions and would easily find opportunistic motivations to hinder commercial negotiations. Thirdly, the Hull type of bilateral agreements proved themselves inefficient in developing and liberalizing international trade. Some of them consolidated power inequalities between signatory countries (Bidwell, 1945: 33) and some other bypassed the most favoured nation treatment: “...the practice of narrowing the classification of tariffs items has been widely employed to confine the effects of each tariff-bargaining agreement to the trade of the two signatories.” (*Ibid.*: 34). Fourthly, another of Bidwell’s arguments in favour of multilateralism was related to the problems raised by regional trade agreements. On one side, he considered that the latter contributed to setting up regional blocs endowed with their own dynamics acting against the aim of world trade expansion²⁵. On the other side, he thought that a multilateral organization only would be able to efficiently control those agreements insofar as they did have an impact not only on member countries, but on non-members as well (Bidwell, 1942/43: 309; Bidwell, 1944: 349). The sole way to guarantee the compatibility between regional agreements and a developing world trade would be to insert the former in an organization standing higher than them, i.e. in a worldwide

²⁵ To evaluate the real impact of such agreements on international trade is out of the scope of this paper. It nowadays remains a debated question. A sketch of the blocs which had been built between the two world wars and an assessment of their complex effects on international trade can be found in Eichengreen – Irwin (1995).

organization the task of which was to achieve the world trade expansion. Finally, associating state trading countries like Soviet Union in an international trade negotiation could only be reached by the multilateral approach.

4 – The conception of the international organization

We can exclusively refer to Hull's 1916 letter to Lansing in order to find out his thoughts on the international structure he had in mind, since from 1933 he totally abandoned this idea under the pressure of events. Two dimensions of the organization are emerging from that letter. On one side, Hull planned the settling of an interstate agreement to reduce every form of barriers to international trade. On the other side, he planned an arbitration body to be created, the competence area of which had to be strictly limited to disputes coming within the international private law's remit. The content of the (m) proposition of that letter was very accurate on that point: "To devise and adopt, if possible, a reasonable system of commercial arbitration covering dealings between traders of different countries." (Hull 1916). This organization was clearly not thought by Hull as endowed with the power to settle disagreements between member countries relating to their trade policies. In the absence of further information about the ways of implementing the items of the interstate agreement on barriers to trade, we are led to conclude that Hull in fact proposed a private justice system meant to settle commercial disputes the litigants of which were private operators of international trade. This mode of dispute settlement supposed the parties agreed on voluntarily resorting to the arbitration procedure, as well as on choosing the arbiters. This type of justice, based on a consensual approach between the involved parties, could evidently not be rendered by a supranational kind of judicial body endowed with sanction powers. Insofar, Hull claimed a light cooptation-based international structure devoted to private commercial disputes settlement, of the ICC International Court of Arbitration type, and leaning up an intergovernmental agreement relating to national trade policies. It can be said that he developed an optimistic view of the cooperation will of the actors of commercial relations. Firstly he did not explicitly consider the case where members of the interstate agreement could cheat in the application of the common rules negotiated in the latter. This is probably why the 1916 letter did not refer to any structure in charge of disputes between states about their trade policies. Secondly he did not consider the case where private commercial disputes were unsolvable by a consensual method because some private actors would not accept having resort to an arbitration procedure.

In his various papers relating to this theme, Bidwell championed a very different conception of the organization. He did not share Hull's optimism about the good will of states in implementing the terms of trade agreements. According to him, jealously defending their sovereignty by the national states was the main cause of the interwar troublesome economic relations in the world (Bidwell, 1945: 63). And the interwar disappointing experience of commercial negotiations was revealing that it was an illusion to hope that freer trade recommended by international conferences would be implemented spontaneously and with great willingness by national governments (*Ibid.*: 12). In his mind, the lack of an international body effectively dedicated to control the implementation of those recommendations was precisely one cause of the failure of interwar conferences attempting to liberalize international trade (*Ibid.*: 21). This is why Bidwell as soon as June 1942 clearly opted in favour of giving up some state sovereignty as far as commercial policies are concerned. The CFR archives recording the debates held within this group excluded any doubt on this point: "Mr. Maddox asked if Mr. Bidwell was definitely recommending the creation of an international authority which would be able to control national tariff schedules. There are very important political and economic implications to such a decision. Mr. Bidwell said that [...] real international control is possible only if the states give up some power." (Cited by Nerozzi, 2007: 13). The option in favour of an international organization endowed with some supranational power was here verbally expressed, and later confirmed in Bidwell's writings. The area of competence of the organization he proposed was clearly the international supervision and coordination of national trade policies (Bidwell, 1942/43: 310), and the supervision of all bilateral trade agreements as well as the multilateral one he was suggesting (Bidwell, 1944: 351). The organization was assigned policy-making functions (Bidwell, 1945: 53) and some delimited executive duties. Fully in line with that conception and conflicting with Hull's views, Bidwell proposed an organization endowed with some power to impose sanctions to member states. Ideally this power should have taken the form of a right of veto on national trade policy measures not conforming to the rules of the organization (Bidwell, 1944: 351). But insofar as such an option would with difficulty receive assent from national states, Bidwell proposed the organization to be conferred the functions of investigation on new restrictive measures to trade a member state planned to decide and of advice on national trade policies. Inspired by H. Thompson's proposals²⁶, he thought the

²⁶ In 1919 H. Thompson, member of the Federal Trade Commission "...proposed, instead of Mr. Hull's 'trade agreement congress' a judicial body, a world tribunal, similar in its organization to the Permanent Court of International Justice. The principal business of this tribunal was to be the investigation of activities of international cartels. Publicity was the weapon by which cartel activities inimical to the public interest were to be suppressed." (Bidwell, 1945: 28). The Permanent Court of International Justice was conceived in the frame of the League of Nations in order to cope with disputes between states.

organization firstly to rely on persuasion in order to gain withdrawal of trade policy measures contravening to rules agreed in common. He hoped the publicity of unfavourable reports to the trade policy followed by a member would have a deterrent effect. But in case of non-respect for those rules by a member despite of recommendations coming from the organization, Bidwell proposed the former to be deprived of its right to the most favoured nation principle not only by the injured countries but by every member of the organization: “The need for sanctions might be met by providing in the convention that a finding by the Commission that any signatory state had failed to observe the terms of any agreement should automatically free all other member states from their obligation to grant it the most-favoured-nation treatment in tariff matters” (Bidwell, 1945: 57). And the initiative to give green light for this deprivation would be up to the organization: “A recommendation from the commission should be sufficient to free any signatory country from its obligation to afford equal treatment to a recalcitrant.” (Bidwell, 1944: 351). Though Bidwell was clearly opposed to a an international body deciding and enforcing international trade rules independently from the national states (Bidwell, 1945: 57) and to an international structure intended to plan the international trade, he defended a philosophy which clearly entailed transferring some sovereignty elements form the states to the organization and which conceived the latter as an international body of trade rules and of control on national trade policies endowed with some moderate means to constrain them.

Bidwell’s conception of the organization was really nearer than Hull’s from the WTO, both as shaped in the Marrakesh Agreement (1994) and as it now concretely works. Clearly the WTO’s remit is explicitly that of international public law²⁷ and its competence area is focused on the trade policies of member States. The WTO is endowed with some (admittedly moderate) supranational powers inasmuch as its Dispute Settlement Body (DSB) are conferred some sanction powers: the DSB is competent first to decide compensations in favour of a member she found as being hurt by the trade policy devices of another member, and second to give the former permission to withdraw some of his concessions. Whereas until 1994 the consensus based approach of dispute settlement in the GATT made it possible for a non-compliant state to block the decision of a dispute settlement panel. Of course, as far as judicial competences are concerned, the Marrakesh Agreement provides for an arbitrage procedure in case of disputes between members (Article 25 of the Understanding on Rules and Procedures Governing the Settlement of Disputes). But this text submits the arbitral decisions to articles 21 and 22 defining first the conditions under which the DSB pronounces

²⁷ Article 3 of the Understanding on Rules and Procedures Governing the Settlement of Disputes explicitly refers to international public law.

its own decisions. An arbitrage may occur, but only in case of challenging the amount of suspension proposed by the DSB and in order to check its conformity to the level of lost benefits. And the spirit of the Havana Charter for an International Trade Organisation (1948) was not strongly different on such matters from the one inspiring the Marrakesh agreement: articles 94 and 95 of the former deal with the conditions under which a Member can be released by the Organization from obligations or of from the grant of concessions to any Member²⁸. Insofar as the Havana Charter had been ratified by only few countries, the ITO was never created and the international trade community limited itself to the GATT. The latter did not include chapters VII and VIII of the Havana Charter relating to the ITO and to the settlement of differences. The redrafted text referred to contracting parties and not to member states of an organization.

As a consequence, it can soundly be thought that one of the underlying but unsaid reasons why Hull was personally opposed to progress in the discussions and the negotiations on a multilateral commercial organization which occurred during the last two years of his mandate as a Secretary of State lies in a fundamental conflict with some other American thinkers and actors of those negotiations on the very philosophy of the organization to be created.

5 – The role of the United States in the international trade negotiation

From the 1930s, Hull conceived bilateralism as a means of using existing devices of the American trade policy as negotiation instruments in order to get concessions from partner countries of the United States intending to cut the world overall mean level of protection. And that even if he had disapproved some of those devices when passed by Congress²⁹. Of course, framing the American trade policy during the pre World War II years was only partly under the control of the Secretary of State: nationalist and protectionist circles were not absent around Roosevelt. Some trade policy measures of the New Deal, and among others some items of the Agriculture Adjustment Act and of the National Recovery Act, were clearly protectionist. Viner (1947: 618) testified that the liberal views of the Department of State did not always get the upper hand, particularly because the Department of Agriculture and

²⁸ Whereas Hull never did express himself about the ITO, Bidwell made his stance on this organization clear in a document he wrote later than in the period we consider here. He declared himself favourable to United States ratifying the Havana Charter. He explicitly recognized the considerable administrative and quasi-judicial functions of the ITO, while negating it had the power to plan the international trade. He thought that if the United States did not ratify the Charter, they would be bearing the serious responsibility of preventing the implementation of liberal principles in world trade (Bidwell – Diebold, 1949: 230 – 237).

²⁹ This view is developed in Schatz (1970) and Schwob (2009).

Congress succeeded in imposing import quotas, whose principle had been disapproved by Hull. And Aaronson (1991) reminds that some conflicts had emerged within the Department of State on the appropriateness of Hull's views about reshaping the American trade policy. If Hull cannot be held the sole responsible for the changes occurred in the American trade balance after the RTAA came into force, the American trade surplus had nevertheless been growing during that period. Although Hull had denounced the American leadership in triggering a spiral of protectionism and in spreading the 1929 crisis throughout the world [Hull, 1948: 126 – 127; Congressional Record march 24th 1932 (cited by Allen, 1953)], he always defended a policy intending to assure the economic lead of the United States in the world. Owing to the huge economic power of the United States, liberalizing the international trade seemed to him likely to have more beneficial than prejudicial effects for them. He congratulated himself on having made it possible for the American trade to achieve excellent results two years after passing the RTAA: "... the ratio of benefit in our favour was nine to one." (Hull, 1948: 262). After 1934, his positive conception of the American leadership in trade matters was that under their own head, the United States had offered other countries a matter for cuts in tariffs, thanks to the negotiation possibilities offered by the RTAA program. And such a commitment seemed to him both realistic and sufficient. In coherence with his idea of the co-responsibility of the United Kingdom and the United States in developing the protectionism throughout the world in the early 1930's, he claimed in 1937 that the leadership in liberalizing the world trade had to be shared with the United Kingdom: United States had initiated it on the American continent and the British had to do it on the European one (Hull, 1948: 524 – 525).

Bidwell's views were changing on such matters. He first developed a more ambitious and more responsible conception of the American leadership. He considered that the role of the new trade policy he was proposing was to increase the world trade volume, not only the United States' exports: "Hence the importance of framing an American commercial policy which will substantially enlarge the volume of world trade." (Bidwell, 1944: 344). This passage entailed an implicit criticism to the policy pursued within the framework of the RTAA, even if Bidwell diplomatically pointed out that he did not call the persons into question. Not only did he thought that this policy had mainly promoted American exportations, but he pointed that the commercial surplus of United States will in the future be a threat to the world economy and to liberalizing the international trade: "Our export surplus threatens to become in Post-war years a serious obstacle to the stabilization of currencies, to the general adoption of liberal trading policies abroad and to the expansion of international trade." (Ibid.). The same implicit criticism to the American leadership, as

practised until then, stemmed from its general conclusion: “The acceptance on our part of an obligation to reduce tariffs as part of a multilateral agreement will mark a departure from tradition.” (*Ibid.*: 353). From his analysis of the economic position of the United States in the world, Bidwell deduced his positive views on the American leadership. Whilst considering in his 1942/43 paper that the leadership had to be shared by major commercial powers in order to promote an international control on national trade policies, his position changed. In his paper of 1944, he wrote: “The success of a multilateral agreement on commercial policy of the type of which I have proposed would depend upon the active and loyal participation of the United States...Not in a spirit of boasting, but with a sober sense of the great responsibility that is inseparable of great power, we ought to recognise that the world will look us for leadership in all these new ventures.” (*Ibid.*: 353)³⁰. The reference to a boasting spirit may be understood in the light of this other passage: “The multilateral agreement of which I have proposed is designed to transfer this phase of economic co-operation out of the realm of general discussion into that of specific action.” (*Ibid.*). Put together these elements led us to conclude that, in Bidwell’s spirit as expressed in the 1944 paper, the onus was on the United States to take on the leading role in international commercial cooperation matters³¹. Owing to their dominant economic position in the world, their responsibility was to take the initiative for accepting losing a part of their sovereignty in commercial policy matters in order to give credibility to the multilateral agreement and thus to convince the other countries to follow the United States in that way. But later, he agreed on a position in some way near to Hull’s one, but in some other way very different: the leadership had to rest jointly on the United States, the United Kingdom and the USSR (Bidwell, 1945: 6; 22; 27) if one was hoping for a multilateral trade agreement in a world comprising both market and state directed economies.

Conclusion

Hull unquestionably deserved all the credit for having first championed the idea of a worldwide international trade negotiation. He too had put an end to the unilateralistic tradition

³⁰ The history proved Bidwell right on that point after the Havana Charter had been passed in 1948. The Charter provided that every signatory country had to ratify it in conformity with its constitutional frame. But few countries ratified the Charter because a strong majority was waiting for ratification by the United States. Reluctantly, President Truman was constrained to give up his project of ratification by the Congress in December 1950. And in 1951, Secretary of State Acheson announced its definitive withdrawal (Diebold, 1952: 24). As a consequence the ITO was stillborn.

³¹ Some trace of such a conception of the American ratchet effect can still be found long before Bidwell wrote his project of an international trade agency: “In 1928 and 1929 the news that an upward revision of the American tariff was impending was responsible to no small extent for checking the movement in Europe toward tariff reduction. A decisive move now by the United States toward lower tariffs might be the force needed to break the world’s tariff jam...” (Bidwell, 1933: 146).

of the American trade policy, inasmuch as he inspired the RTAA. Finally, having learnt during his long political career from the realities of the international commercial negotiations and of the domestic context of which they depend, it must be given credit to him for a great pragmatism. The latter led him to take realistic stands on these matters, even if they were distancing in some way from his early ideals of multilateralism. However, if a spiritual father of what is nowadays the WTO has to be sought for in the United States, he cannot be found in Hull's person. Bidwell's project of an International trade agency was more keeping with the now existing WTO than Hull's project of an International trade treaty congress, as far as the philosophy of international organizations and their operating processes are concerned.

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