

Reciprocity in Nineteenth-Century U.S.-Colombia Commercial Relations

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Introduction

Hardly mentioned in the large literature surrounding the pending U.S.–Colombia Trade Promotion Agreement, whether in periodical, professional, or academic sources, is the two countries' long history of reciprocal commercial negotiations. In the mid 1820s, Colombia became the first U.S. negotiating partner among the independent republics of Latin America. In the nearly two centuries thereafter, the two countries have sought on numerous occasions to revise or replace the treaties and agreements governing their commercial relations. What might a review of the past contribute to the present debate?

Historical literature addressing some parts of the past record is abundant. Diplomatic histories of Colombia and the United States, like those of Rivas (1915), Parks (1935), and Díaz-Callejas (1997), mention one or more of the commercial arrangements within more general narratives of cooperation, conflict, and asymmetric power. Economic histories like those of McGreevey (1971) and Ocampo (1984) aid in drawing inferences about the material effects of some of the arrangements if not their political and ideological causes. Ospina's (1955) invaluable treatise, *Industria y Protección en Colombia, 1810-1930*, also develops the diplomatic and economic context of some of the arrangements (albeit less systematically than the foregoing works) and has the added virtue of illustrating their relation to general tariff controversies in Colombia. Yet none of these studies except Díaz-Callejas's make the commercial arrangements themselves the center of attention and attempt to discern in them some common threads – and Díaz-Callejas focuses so sharply on Colombia's subordination to the United States that the other threads are lost. They include two that are among the most relevant to the pending agreement. In addition to the national

security stakes for both countries (which all the diplomatic histories address with respect to some if not all of the proposed arrangements), they are the uncertain relationship of U.S.-Colombia reciprocity with the ideological positions of free trade and protectionism, and its similarly uncertain relationship with the leading U.S. political parties.

This essay is part of a larger project that follows the foregoing threads through the history of U.S.-Colombia commercial negotiations from Colombian independence to the decade preceding the Second World War. Four landmarks are particularly important to the history: the commercial treaties of 1824 and 1846, the U.S. reciprocity proposal of 1892 that was rejected by Colombia, and the commercial treaty of 1936. The latter two are left for another essay. The following pages focus on the political, economic, and ideological purposes of the first two generations of U.S.-Colombia commercial arrangements.

The Treaty of 1824

The first U.S. commercial treaty with an independent American republic was signed in Bogotá in 1824. The Colombian signatory was Foreign Minister Pedro Gual; the United States' was Chargé d'Affaires Richard C. Anderson, who answered to John Quincy Adams, then Secretary of State to President Monroe. The treaty was ratified five months later during Adams's presidency, when Henry Clay was Secretary of State. It may fairly be said to bear the imprint of Adams's foreign and commercial policy and to be consistent with Henry Clay's "American system."

The implications of these two associations are not immediately clear, and certain remarks by outstanding historians of U.S. foreign policy have made them less so.

Samuel Bemis ([1949] 1973, 468) refers to Adams's consistently "stout stand throughout his diplomatic career for reciprocal freedom of commerce with all nations and colonies." J. Fred Rippy (1929, 1) writes of the general foreign commercial policy of the United States, up to and including the period of Adams's tenure at the Department of State, as one directed toward "the achievement of greater commercial freedom through the removal of the restrictions of the old commercial system." From such remarks one might conclude that U.S. commercial policy in the period sought something resembling free trade; and inasmuch as the U.S.-Colombia treaty partook of the general policy, it sought the same end. On both counts one would be partly right and largely wrong.

The mere association of Clay's name with the treaty should make the free-trade interpretation of it suspect. While Clay was renowned in the southern part of the hemisphere for his vigorous advocacy of independence for the region's young republics, he was known better at home for championing federal government responsibility for internal improvements and tariff protection from foreign competition. Some insight into the purposes of the U.S.-Colombia treaty of 1824 may be gained by answering this question: how did Adams, avowed champion of "a liberal system of commercial intercourse with foreign nations" (quoted in Bemis [1949] 1973, 454) and Clay, who just a few months earlier had given a momentous speech extolling the "restrictive policy" of the past and urging henceforth a "domestic policy" in place of a "foreign" one (*Annals of Congress* 1824, 1962-2001), see eye to eye on the Colombia treaty?

The obvious answer – that Adams saw the treaty as a triumph for free trade, while Clay suppressed his protectionist inclinations in this instance to show support for Colombia's newly-independent government – happens to be wrong. Adams and Clay agreed with each other more fundamentally on the question of the treaty, and

understood their advocacy of it to be more consistent with tariff protection at home, than that answer would allow. In reflecting first on Adams's motives, it is useful to consider the model of a commercial treaty that he wished to follow in negotiations with Colombia. Adams believed that the liberal system he sought to extend had been "proclaimed to all the world" in the first U.S. commercial treaty, which was celebrated with France in 1778 (Bemis [1949] 1973, 455).

The centerpiece of the Franco-American treaty was its Article II. The gist of it, the "most-favored-nation" (MFN) principle, was incorporated into most of the treaty's other thirty-one articles. The article read,

The Most Christian King and the United States engage mutually not to grant any particular favour to other nations, in respect of commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same favour, freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional. (Malloy 1910, vol. 1, 469)

Three observations may be made about the article to the end of illuminating the background of the U.S.-Colombia treaty. First, it inscribes non-discrimination into the commercial relations of the U.S. and France, but only in the limited sense of each country's eschewal of discrimination against its treaty partner vis-à-vis all other countries. Each country reserves the right to discriminate against its treaty partner in favor of itself. In other words, the MFN principle does not imply what would today be called "national treatment" of the partner's commercial agents or ships – nor of the partner's goods, as free trade would require. Second, therefore, although the MFN clause may be compatible with "a liberal system of commercial intercourse," the extent

to which it promotes that end depends on circumstances outside of the clause itself. The circumstances include most importantly how much each country's general tariff and maritime policies discriminate against the most-favored nation, and the likelihood that each country's future tariff concessions to other partners will indeed be extended to the original treaty partner as the MFN principle would seem to demand.

Third, the MFN principle, at least as stated in the foregoing article, does not, in fact, demand that each country's future tariff concessions to others will be extended to the original partner. The conditional clause at the end of the article appears to make room for such extensions; in practice it makes them unlikely. Favors granted afterward to another nation by treaty could always be construed as having been made only on condition of all other articles in the treaty. The favors would have to be made extensive to the original treaty partner, therefore, only on condition of the partner's assent to a complete set of identical articles. Any given country's treaties with its several partners differed in a sufficient number of articles, and in sufficient detail, that such an event could scarcely ever happen. This author knows of no instance when it ever did happen – although countries occasionally construed the conditional clause more generously and extended the favor with fewer conditions than they could have required.

Understanding the foregoing implication of the conditional phrasing of the MFN clause, U.S. negotiators ensured that it appeared in almost all of the country's most-favored-nation treaties. What was more, in those relatively few MFN treaties in which the conditional phrase was absent, U.S. authorities insisted nonetheless on a conditional interpretation – and did so with such consistency that conditionality of MFN came to be known as the “American” view (Herod 1901, 13). The ablest exponent of the view was none other than John Quincy Adams (12-13). A clue to his motive lies in the identity of those who opposed the American view: they were, above all, “those nations whose

policy is free trade” (13-14). Adams, by contrast, and like numerous predecessors and followers in other U.S. administrations, preferred the MFN clause to be either written or interpreted conditionally because he hewed to a protectionist policy (Taussig 1892, 74). For him, the purpose of MFN was not to drive merchandise tariffs lower, but to pursue other objectives while keeping them high.

Adams’s objectives in applying the MFN principle concerned not merchandise trade but navigation. The large majority of articles in the Franco-American treaty that was his model had nothing to do with each country’s tariff treatment of the other’s goods. They related instead to such matters as the levying of port and tonnage duties on ships, treatment of cargoes produced in each country when found by the other aboard enemy ships, treatment of cargoes produced in enemy countries when found aboard ships of either partner, definitions of contraband of war and protocols for their determination and capture, and so on. The same was true of the U.S.-Colombia treaty.

Adams’s negotiating instructions to Chargé Anderson reflected an exclusive concern with navigation. In a letter of late June, 1824, Adams urged Anderson to persuade the Government of Colombia to accept the principle that “free ships shall make free goods” (*Diplomatic Instructions*, 29 June 1824). Although the phrase was common parlance and had already appeared in the Franco-American treaty, Adams spelled out its meaning in a more detailed letter of mid July. Vessels of either partner – “free” in the sense that they were expressly permitted to enter ports of the other partner, although not necessarily without paying duties – could not be expropriated by the other partner, nor could their legitimate cargo be expropriated, even if some part of the cargo included the products of enemy countries or contraband of war (*Diplomatic Instructions*, 14 July 1824). Predictably, Colombia, which did not have the interests of a thriving merchant marine to attend to, but did face a hostile European “Holy Alliance”

whose military and commercial interests might be promoted by trade with the former colony in U.S. ships, opposed the principle. But the U.S. had its way, and the principle was written into Article XII of the treaty.

By his vigorous and successful advocacy of the principle of “free ships shall make free goods,” Adams can indeed be said to have contributed to a “liberal system of commerce.” His argument, too, in favor of national treatment in shipping qualifies as a contribution toward a liberal commercial system, even though it made no imprint in the treaty of 1824. Colombia did not acquiesce to national treatment, and in consequence, Article II of the treaty was nearly identical to the corresponding article of the Franco-American treaty, stipulating MFN treatment and no more. But there were limits to Adams’s contribution to commercial liberalism, and they were more substantial than his inability to achieve the full extent of his program. The real limit was in the program itself. It proposed to liberalize shipping but not exchange of the goods to be shipped; it fostered more liberal treatment of intermediaries but not consumers or producers. Even allowing for those concessions to expediency that are inevitable in a political system of checks and balances, Adams’s program did not resemble remotely what then or now would be called free trade. “Free commercial services” would be a more apt label.

The limits of Clay’s liberalism are demarcated even more clearly than Adams’s. Adams’s protectionist views were relatively moderate (Taussig 1892, 85); Clay’s were at once firmer and more central to a comprehensive system of political and economic thought.

The centrality of protectionism to Clay’s “American system” of encouragement for domestic industry and commerce is well known. Less well known, despite Randolph B. Campbell’s (1967) able explanation, is that the system’s moniker had a second meaning relating to the Spanish-American policy that Clay advocated, and what

is more, the two meanings were closely tied. Specifically, the protectionism that inhered in the first usage of the “American system” was served by, and served, the foreign policy referred to in the second. Not much of Campbell’s explanation needs to be restated here to make the essential point: while for Adams, the U.S.-Colombia treaty of 1824 was *consistent with* protectionism, for Clay it was a means of *advancing* protectionism.

Henry Clay’s Spanish-American policy coalesced in the aftermath of the War of 1812 in North America and the Napoleonic Wars that had consumed all of Europe. The Treaty of Ghent of 1814 ended war between the U.S. and Great Britain but left their rivalry in tact (Rippy 1929, 7). The Treaty of Paris of 1815 no sooner ended the war in Europe than it set off a “scramble for the spoils of Bonaparte’s empire,” as Clay would later put it (*Annals of Congress* 1818, 1494), by the monarchies that vanquished him. Collectively, the kingdoms of Great Britain and Europe maneuvered to stifle the republican aspirations of Spanish America. Individually, they sought to win control for themselves – or, failing that, to block transfer of the provinces’ sovereignty to anyone else. From the beginning of the struggle for independence, leaders like Francisco de Miranda looked to the United States as the exemplar of New-World republicanism and received popular sympathy in return (Rivas 1915, 7-8, 14-15). Clay proposed that, beyond sympathy, the U.S. should grant the new republics recognition.

The U.S. government was slow to take up Clay’s proposal. Having just concluded a costly war, few in the United States wanted to risk the antagonism of Great Britain and Spain – and of those who might have been willing, fewer wanted to imperil the latter’s anticipated cessation of Florida (Rivas 1915, 14-16). Clay set himself to demonstrating the moral and practical imperatives of U.S. recognition and assuaging the fears.

He began, typically, with the moral imperative. Spanish America, Clay declaimed to Congress in March, 1818, was subject to a “stupendous system of colonial despotism” (*Annals of Congress* 1818, 1477) that implied both violent repression and commercial restriction. Not even the United States had suffered such tyranny before braking from its master. “If we were justified,” Clay argued, “she is more than justified” (1478). Nor could the United States be indifferent to such suffering considering the Spanish-American peoples’ natural affinity with their northern brethren. Once their independence was secure, Clay believed, they would choose “free governments” modeled after the United States – although the latter had “no right to prescribe for them” that choice. Even if they should depart somewhat from the U.S. model, however, he had no doubt that “they would be animated by an American feeling, and guided by an American policy. They would obey the laws of the system of the New World ... in contradistinction to that of Europe” (1482). Spanish America was an abused and neglected relation who asked merely for recognition from her republican kin. The United States was obliged to offer it.

Next Clay came to the practical imperative. The “system” of the Old World was identified by the “odious spirit of monopoly” emanating alike from London and Cadiz equally with their anti-republican forms of government (*Annals of Congress* 1818, 1485, 1477). Great Britain and Spain had barred access to the ports of the West Indies and Spanish America to all but the ships of the mother countries, and had governed their agriculture so as to serve imperial rather than colonial interests. The system of the New World, therefore, was identified, equally with its republican forms of government, by dissolution of the fetters to international navigation and the establishment of laws serving the needs of each country. The benefits for the United States of the Spanish-American provinces’ adoption of such a system – which, two years later, he would call

explicitly the “American system” (*Annals of Congress* 1820, 2228) – were manifest. Although for the moment the U.S. produced few products of importance to them, nevertheless, once their ports were opened without discrimination to all the world, the advantage in shipping would lie with the burgeoning U.S. merchant marine. “Our navigation will be benefitted by the transportation,” said Clay, “and our country will realize the mercantile profits” (*Annals of Congress* 1818, 1486).

To Clay, however, the benefits to the United States only began with navigation. They extended much farther. The U.S. would, in time, have much to offer Spanish America, particularly if the American system were embraced at home as well as abroad. U.S. manufacturing exports were already “respectable” and were “constantly augmenting”; their destinations were mainly within the Americas (1485). In return, the Americas offered the United States precious metals, cocoa, coffee, cochineal, sugar, and assorted other articles (*Annals of Congress* 1818, 1484) – of which, by Clay’s calculations, less than two percent competed with U.S. products (1486). In short, the material advantages of the American system for the United States lay in the opportunity it offered for development of the country’s manufacturing industry in tandem with agriculture. Spanish America would be a “vent” for surplus products of both kinds, trading in return raw materials and consumables that presented no threat to U.S. producers.

Given the dual purposes of the American system, Clay faced no rhetorical problem, once the immediate objective of recognition of the Spanish-American provinces’ independence was achieved, in using the term more in reference to the objective of promoting U.S. manufactures. In March, 1824, in support of the protective tariff bill of that year, Clay emphasized the distress of U.S. industry. “But there is a remedy,” he added, which consisted in “adopting a genuine American system.” The

latter implied in this instance a deliberate effort to “naturalize the arts” by “adequate protection against the otherwise overwhelming influence of foreigners” (*Annals of Congress* 1824, 1978). Adequate protection, he added, was “only to be accomplished by the establishment of a tariff” (1978).

It should not be supposed that a hemispheric and liberal American system had morphed into a domestic and protectionist one. All these elements were present all along. Nor, even after Clay shifted his emphasis, did he fail to allude to the hemispheric and liberal elements. In his speech on the foregoing tariff bill, Clay reminded his colleagues that tariff protection did not imply isolation, and attention to the home market did not imply neglect of the foreign one. One justification for incurring immediately higher costs for the products of protected industries, for instance, was that the costs would be compensated eventually by the gains from exportation of those same products. Indeed, he observed, “already the item in our foreign exports of manufactures is considerable; and we know that our cotton fabrics have been recently exported, in a large amount, to South America, where they maintain a successful competition with those of any other country” (*Annals of Congress* 1824, 1981). Protectionism would prevail in separating the United States from Britain and Europe, liberalism in uniting the hemisphere.

Clay was not contradicting himself, therefore, in supporting Adams’s most-favored-nation treaty with Colombia in 1824. Nor was he behaving contradictorily when, one year later as Adams’s Secretary of State, he used the treaty to win national treatment in direct navigation between the U.S. and Colombia for U.S.-produced cargoes. In the intervening period, in what Ospina (1955, 109) calls the “pieza maestra” of early Colombian commercial policy, Colombia granted Great Britain the analogous favor reciprocally by treaty. Clay instructed the U.S. chargé to invoke the conditional

MFN clause of Adams's treaty to win the same by offering it in return (*Diplomatic Instructions*, 16 Sept. 1825). Both Adams's treaty and Clay's exercise of its key provision promoted U.S. navigation and hemispheric trade without compromising, and indeed while complementing, tariff protection for U.S. manufacturers against British and European competitors. What was more, U.S. ships and goods would carry with them U.S. influence, causing Colombia to align its institutions with those of the North instead of the East.

Clay's statement of his purpose in 1820, when his immediate concern was South American independence, was applicable just as well to his advocacy of both the tariff of 1824 and the U.S.-Colombia commercial treaty: "we should become the centre of a system," he had said, "which would constitute the rallying point of human wisdom against all the despotism of the Old World" (*Annals of Congress* 1820, 2227).

The Treaty of 1846

In the event, the treaty of 1824 succeeded in most, but not all, of Adams's and Clay's designs. It hastened Great Britain's recognition of Colombian independence (Bemis [1949] 1973, 406), and, notwithstanding growing doubts in the United States about General Bolívar's commitment to republicanism as well as the viability of republicanism without him (Rivas 1915, 69-71; Parks 1935, 151-158), it helped to maintain Colombia's attachment to that form of government by lending moral support to its advocates (Bemis [1949] 1973, 407). The treaty also proved to be perfectly compatible with the protective tariff of 1824 – and even the "Tariff of Abominations" of

1828, which raised the average U.S. tariff to approximately sixty percent by 1830.² On the other hand, the treaty did not, as Adams and Clay had hoped, establish a commercial relationship between the two countries that put the United States permanently on a footing that was the equal *de jure* and superior *de facto* to that of any other country. So it was not long before negotiations of U.S.-Colombia commercial relations commenced again.

The cause of the treaty's partial failure to fulfill the designs of its U.S. authors was the same as that of at least part of its considerable success. We have seen that the advantage of a treaty based on the MFN formulation, from the U.S. perspective, lay as much in the discrimination that it permitted as in that which it abolished. Colombia was even more adept than the United States, however, in levying discriminating duties in a manner consistent with the MFN principle.

Colombian trade policy at the time discriminated among foreign suppliers of goods and services, as well as between foreign and domestic suppliers, in three dimensions. Tariffs depended not only on the origin of merchandise and the nationality of the ship that transported it, but also on the route that the ship traveled. Consider, for example, a shipment of U.S. textiles. Before 1823, Colombia subjected the shipment to a 22.5% tariff – an ample if not extraordinary degree of protection for domestic textile producers. But they were not the only ones in whose favor the tariff discriminated. If the merchandise came in a Colombian rather than a U.S. ship, the tariff was reduced to 17.5%. If similar merchandise came from Great Britain rather than the United States, and if it was transported to Colombia directly (without passing first through any other port) in a foreign ship, the tariff was reduced still further to 12.5%. If it came from Great Britain directly in a Colombian ship, the tariff was 10% (Ospina 1955, 104).

² The average tariff is defined here as the ratio of total customs duties to the value of either dutiable imports or total imports. The data are taken from U.S. Bureau of the Census (1975), series U207, U208, U210.

Beyond the common discrimination in favor of domestic as opposed to foreign producers, therefore, Colombian tariffs discriminated in favor of domestic as opposed to foreign shipping, and, more significantly, in favor of direct commercial intercourse with Great Britain as opposed to that with the United States.

Favoritism of Great Britain partook of the greater Colombian strategy of dangling commercial favors before the Great Powers in the hope of enticing at least one of them to recognize the new republic's independence. The others, it was expected, would grow restive upon witnessing their rival's influence and would follow in short order. Some statesmen pinned their hopes on the United States: don Manuel Torres, for instance, whom Bolívar entrusted in 1819 to negotiate with the U.S., considered the latter country and his own to be "friends and natural allies" who, united, could "mock the designs of all of Europe" (Rivas 1915, 11-14). In 1820, he proposed "an American System" to Secretary of State Adams almost immediately after Clay's first public use of the term (Parks 1935, 126). But Torres's was probably the minority view, at least among the Colombian political and merchant classes (Rippy 1929, 192). Great Britain was by far the greater military and commercial power, so an alliance with her offered arguably more protection and prosperity.³ Besides, notwithstanding its professed ideals, the United States appeared for a long while to be no more willing to recognize Colombia than was Great Britain. Recognition, it was thought, would alienate Spain and prolong its cession of Florida (Rivas 1915, 16). Colombia's discrimination in favor of commerce with Great Britain and against the United States was at once an expression of hope for closer ties with the former and a prod for recognition by the latter.

The treaty of 1824 ended the overt discrimination in favor of Great Britain and against the United States, and Clay's exercise of its MFN clause ended discrimination

³ According to the figures of McGreevey (1971, 35-36) – converted to common currency values using the U.S.-U.K. exchange-rate data from Officer (2008) – the value of U.S. exports was roughly between one-third and one-half that of Great Britain between 1827 and 1830.

against U.S. ships traveling directly and carrying U.S. cargoes. But the discrimination against U.S. ships traveling indirectly, by way of the Antilles, remained⁴ – as did that against U.S. ships carrying other than U.S. products. These forms of discrimination worked ostensibly only to Colombia's advantage, not Great Britain's, because the latter was also subject to them. But in effect they worked to the very considerable advantage of Great Britain.

The incentive for direct shipping in national vessels favored Great Britain because she had a larger variety of goods, particularly manufactures, to offer Colombia than did the United States, and also had the ships for transporting them. U.S. ships found advantage in making calls at other foreign ports before landing in Colombia precisely because much of their cargo was not produced at home. More than half a century would elapse before Clay's vision of the United States as a great exporter of manufactures was realized; until then, incentives for direct shipping, even if not expressly discriminatory, discriminated in favor of Great Britain (Ospina 1955, 168).

The incentive for shipment of domestically-produced cargoes compounded the effect. U.S. ships could avoid the indirect-shipment penalty simply by taking on their foreign cargoes in U.S. ports rather than foreign ones. Inasmuch as their foreign cargoes consisted of British manufactures, any inconvenience in taking them aboard in Baltimore rather than the Bahamas would hardly be onerous. The greater was the penalty for carrying foreign cargoes, however, the more that loophole would be closed – and the greater would be the effective discrimination in favor of Great Britain, which had no trouble filling British ships with British merchandise in British ports.

⁴ The purposes of favoring direct commerce between the Colombia and the U.S., Great Britain, or Europe were three, according to Ospina (1955, 159): to entice those countries to import from Colombia not only precious metals, but also agriculture, which otherwise they would import from the Antilles; to discourage contraband; and to foment "the commercial spirit and techniques that direct contact with the commercial centers would bring."

The effective discrimination against the United States worsened in 1829. The United States' principal exports to Colombia at that time were flour, coarse cotton fabrics (unlike the fine ones produced in Great Britain), and re-exports of British goods (Rippy 1929, 176). General Bolívar's decree of May 8 nearly tripled the specific duty on flour, bringing it to the equivalent of between one hundred sixty and two hundred percent ad valorem (not counting additional duties paid to the municipality). At the same time, the decree imposed an additional five percent ad valorem on products not originating in the shipping country (Ospina 1955, 159; Parks 1935, 170). All at once, and without violating the letter of the MFN clause, the leading U.S. export was effectively prohibited in Colombia and U.S. re-exports of British products were further hobbled. U.S. exports to Colombia (including re-exports) promptly fell by two-fifths between 1829 and 1830. Because the fall may be explained partly by the uprisings and general disorder preceding the dissolution of Gran Colombia, an even more significant drop may be that of the ratio of U.S. to British exports to Colombia, which went from one-half to one-third in the same year (McGreevey 1971, 35-36).

U.S. protests were in vain in the two turbulent years after Bolívar's decree – not least during the reign of General Rafael Urdaneta, whose brief military government a later U.S. Secretary of State would refer to as “virtually a British dependency” (Manning 1935, 449). The restoration of constitutional government in 1831 brought with it, in June of that year, a return to a moderate duty on flour (Rivas 1915, 76). In November, the surcharge on goods originating outside the shipping country, in the special case of the United States, was removed, too – but only briefly. In January, 1832, the U.S. minister in Bogotá, Thomas P. Moore, warned Secretary of State John Forsyth that English agents who had “been recently stripped of most of those advantages” were at the moment “constantly engaged in efforts to mislead the Congress, & to induce that

body to restore the former state of things” (Manning 1935, 458). Within a few months they had their way, and the surcharge was reinstated.

The argument for the surcharge’s removal in the U.S. case had been that the MFN provision of the treaty of 1824 demanded it. Colombia’s subsequent treaty of “union, league and confederation” with the Central American states abolished such duties as far as they were levied by each party against the other. The U.S. interpretation of the conditional MFN clause of its treaty of 1824 held that Colombia was bound to abolish the same duty as levied against the U.S. provided that the U.S. reciprocated, which it was happy to do.

As Secretary Forsyth would narrate the ensuing events to Minister Moore’s replacement, Robert B. McAfee, it happened that the British minister in Bogotá objected to the removal. His objection was nominally that if the United States was due the privilege under its treaty of 1824, then Great Britain was due the same under its treaty of 1825. But Forsyth supposed that the real objection lay elsewhere. He had reason to believe that the British government never offered the equivalent privilege in return, and he was “certain that even if it had been offered, the abolition of the five per cent could not be claimed under the treaty between Great Britain and Colombia.” The British objection could be attributed really to its desire to undercut the United States; and New Granada’s reinstatement of the surcharge in May, 1832, was “partly at least in consequence of the importunities of the Representative of His Britannic Majesty” (Manning 1935, 343-344).

The argument that the government of New Granada made upon reinstating the surcharge was different, of course. It was that Colombia had abolished the surcharge in the case of Central America in return for articles of “alliance” elsewhere in the treaty. Under the conditional MFN provision of the U.S.-Colombia treaty, the U.S. was due the

same not only on condition of its offering the same privilege, but also on condition of its entering into a similar alliance. For New Granada, this interpretation of the conditional MFN clause was opportune: the U.S. aversion to “entangling alliances” was well known, would surely sink any project for a formal alliance between the two countries, and could therefore be relied upon to make extension of the favors granted to Central America unnecessary. But the U.S. interpretation, which held that conditionality was to be construed *a la carte*, was no less opportune – and, it might be added, would be reversed in the following generation, when it was opportune no longer (Herod 1901, 112-115).

For the purpose of this essay it is necessary to determine not who was right but rather where the arguments led. For the United States, they led to a resolve, shared alike by the Democratic administrations of Jackson and Polk and the Whig administrations of Harrison and Tyler (and less firmly by the Democratic administration of Van Buren), to negotiate a new treaty with New Granada abolishing once and for all the discriminating duty. On May 1, 1835, Secretary Forsyth instructed Chargé McAfee to propose a treaty modeled after that of 1825 between the United States and Central America, which provided for full national treatment in navigation in the specific sense that the same duties would apply to imports brought by vessels of either country, regardless of the origin of their cargo (Manning 1935, 346; Malloy 1910, v.1, 161-162). Thus began an eleven and one-half year period of occasional entreaties and halting negotiations that yielded finally the treaty of 1846.

Just as the period began, another aspect of the trans-Atlantic rivalry motivating the U.S. was coming sharply into focus. The Isthmus of Panama had long been the site of interest from Europe, the United States, and Colombia in a permanent route (whether by macadamized road, railroad, or canal) uniting the oceans. Spain’s interest dated as

far back to the early sixteenth century (Parks 1935, 178). In the 1830s, however, attention heightened all around. Panama's declaration of independence from New Granada in September, 1830 – although rescinded less than three months later during the Granadian dictatorship of General Urdaneta, whom the Panamanian government considered more congenial than his predecessor to its interests (Martínez 1972, 57-60) – was a fresh reminder of the contingency of the Isthmus's political attachment to Bogotá. An important faction of influential Panamanians continued to favor independence, which they proposed to secure by way of a protectorate under Great Britain, France, or the United States (Martínez 1972, 60). Naturally, the prospect of any of one of those governments winning control of the Isthmus, and with it trans-Oceanic commerce, excited the anxiety of all of them.

No less anxious was the government and political class of New Granada, for whom sovereignty over the Isthmus implied the collection of whatever rents might be garnered from an Isthmian passageway. One of President Santander's first items of business after his inauguration in 1833 was to urge his Congress to facilitate its construction. Congress obliged in the following year with a decree permitting him to grant a contract for the construction of an Isthmian highway, railroad, or canal (Parks 1935, 184); and the U.S. Senate, aware of the decree, resolved that the President should open negotiations with New Granada (and also Central America) for the construction of a canal, provided that all nations would have access to it without discrimination. President Jackson promptly dispatched a special agent, Charles A. Biddle, for the task (Parks 1935, 185). Secretary Forsyth introduced Biddle to Chargé McAfee by letter and directed the latter to lend the special agent whatever aid he needed in Bogotá (Manning 1935, 342). The date of the letter was the same as that of Forsyth's instructions to McAfee to propose a new commercial treaty. From at least May 1, 1835, then, New

Granada's intense interest in construction of an Isthmian passageway coincided at once with a like interest by the United States and with redoubled U.S. efforts to put commercial relations with Colombia on more advantageous footing.

Coincidence, however, does not imply a close connection. Only the 1840s, after yet another abortive Panamanian declaration of independence and rumors of its pending absorption by Great Britain (Parks 1935, 190), did the relevance of the proposed commercial treaty to the Panama question become clear. In May of 1842, President Tyler's acting Secretary State, Fletcher Webster, pressed the new chargé in Bogotá, William M. Blackford, to resume the commercial negotiations that the civil war of 1839-41 had interrupted – noting now that “the projects for facilitating the communication between the Atlantic and Pacific oceans by means of a canal or railroad across the Isthmus of Panama, are connected with this topic.” A treaty of commerce with New Granada, “placing our citizens on a footing of equality with other foreigners within its confines, might serve to prevent a grant by the New Granadian Government to any foreign government, company or individuals of a special privilege” (Manning 1935, 354).

Blackford's negotiations began in February, 1843, and quickly foundered on the question of the discriminating duty that had troubled the United States since 1829. To be rid of it, Blackford proposed an article borrowed from the U.S.-Venezuela treaty of 1836 (which was borrowed in turn from the U.S.-Central America treaty of 1825) abolishing all discriminating shipping duties regardless of the origin of the cargo (*Despatches*, 18 March 1843; Malloy 1909, v. 2, 1832; Malloy 1909, v. 1, 161-162). The Granadian plenipotentiary, Lino de Pombo, expressed personal agreement with Blackford's proposal but was not authorized to accept it. His government anticipated that the legislative chambers would be predisposed to reject such a treaty – “the delusive

idea of fostering a commercial marine being very prevalent in those bodies,” as Blackford explained to Secretary of State Daniel Webster (*Despatches*, 18 March 1843).

The same reluctance had frustrated the efforts of Forsyth and McAfee several years earlier (Díaz-Callejas 2005, 581-583). Whereas Blackford doubted merely its soundness, Webster’s replacement as Secretary of State, Abel P. Upshur, doubted its genuineness. Because New Granada “can never have ... the material from which a commercial marine may be expected to spring,” he adduced, the real motive for rejecting a treaty on the basis that Blackford proposed must lay elsewhere. It “may in part at least be imputed to the counsels, the insinuations or suggestions of other governments” (Manning 1935, 355-356). Upshur’s doubt was widely shared in the U.S. Congress. It caused the Senate’s effective rejection of the more limited treaty that Blackford was able to obtain, which did no more than duplicate the MFN provision of the treaty of 1824 (expired since 1837). Once again, continuation of the negotiations would have to await changed political circumstances in the United States and Colombia.

In both cases the changes followed relatively quickly. In the United States, the Democratic Party took control of both the Senate and the executive office. President Polk made James Buchanan Secretary of State in March, 1845, and Benjamin A. Bidlack took Blackford’s place as Chargé d’Affaires in Bogotá later that year. The consequence for U.S. policy toward Colombia was less in content than emphasis and motive. Despite President Tyler’s estrangement from the Whig Party, whose partisans ranged from ambivalent (Clay) to unbendingly antagonistic (Adams) toward his efforts to annex Texas and thereby extend the domain of slavery, he managed to have the joint resolution that paved the way passed by Congress and dispatched to the Texan government before he left office (Reeves 1967, 89-91; Pletcher 144-147, 179-183). No less could have been expected from Democratic leadership than a continuation of the

annexationist policy. In fact, Polk expanded it. His program was the acquisition of all of the southwest of the present-day United States, including California (Reeves 1967, 267, 272). His strategy was to present Mexico with claims that it could not possibly pay in cash, invite it to pay instead in territory by adjusting westward to the Rio Grande the border between Mexico and Texas, and offer additional payment for New Mexico and all land west and north to the Pacific coast and the forty-fifth parallel. His alternative, should Mexico refuse, was to win the territory by war (Reeves 1967, 275-277). Polk's anticipation of acquiring California made the construction of an Isthmian passageway, and the rights of U.S. citizens to use it, matters of special urgency to his administration. Buchanan eventually (January 2, 1847) authorized Bidlack to negotiate a commercial treaty to abolish discriminating duties – but he ensured much earlier (June 23, 1845) that the chargé's attention was fixed on Panama (Manning 1935, 357-359).

In New Granada, the changed disposition toward a treaty abolishing discrimination had two causes. One was the installation of a new government at almost exactly the same time (April, 1845) as Polk's and of a similar disposition in trade policy. According to Mejía (2007, 35), the new president, Tomás Cipriano de Mosquera, drew his breath from “the international climate [that] favored the liberal postulates of transformation.” It was the same climate that would yield in the following year Great Britain's abolition of the Corn Laws and the United States' enactment of the liberal Walker Tariff. In New Granada it yielded likewise, in 1847, a significant reduction in tariffs (Mejía 2007, 36; Ocampo 2007, 299) and a fraying attachment to the discriminating duty of which the U.S. had so long complained.

The second cause preceded and continued parallel to the first. Granadian resentment toward Great Britain had been mounting since British naval actions in 1840 and 1841 challenged Granadian sovereignty over the Mosquito coast (Manning 1935,

608-618). While the Granadian government of Pedro Alcántara de Herrán (predecessor of Cipriano de Mosquera) protested the moves, it also gave authority in 1843 for its chargé d'affaires in London, Manuel Mosquera, to negotiate with one or more of the governments of Great Britain, France, the United States, Holland, and Spain either to construct a canal, ceding such tolls as would be necessary to reimburse the expenses of construction, or to guarantee the neutrality of the canal while construction and operation of was undertaken by a private company. In either case the treaty was to recognize Granadian sovereignty over the canal territory (Manning 1935, 601). When Lord Aberdeen's government rebuffed both the treaty initiative and Granadian claims concerning the Mosquito coast, New Granada turned dramatically against Great Britain and toward the United States (Parks 1935, 198-200).

The turn was signaled officially by President Cipriano de Mosquera's Minister of Foreign Affairs, Manuel María Mallarino, in a report he conveyed to Chargé Bidlack. The report warned of Great Britain's "preconceived and longly mediated intention of grasping the most mercantile spots of America," including but not limited to the Mosquito coast, "putting the competition of the United States out of the question." The solution, he suggested, was for the United States to interpose "their moral influence, and even their material strength, between the weakness of the new Republics and the ambitious views of the commercial nations of Europe; and particularly of Great Britain"; and to that end, "the guarantee of territorial possession, to be given by the United States, ought to be incidentally introduced in treaties of commerce." The United States had not even to ask for the abolition of discriminating duties. In return for a guarantee of sovereignty over the Isthmus, Mallarino offered it upfront (Manning 1935, 630-631).

The interests of the United States and New Granada in negotiating a new commercial treaty were at last aligned; the treaty proposed by Mallarino was signed on December 12, 1846. The alignment happened because the treaty was no longer principally about commerce – not, at least, about commerce between the U.S. and New Granada. The United States obtained the abolition of discriminating duties in the same manner as in its treaties with Central America and Venezuela: Article IV stipulated that “whatever kind of produce, manufactures or merchandise of any foreign country can be from time to time lawfully imported in to the Republic of New Granada in its own vessels, may be also imported in vessels of the United States; and that no higher or other duties upon the tonnage of the vessel and her cargo shall be levied or collected, whether the importation be made in vessels of the one country or the other.” National treatment for re-exportation from each country in vessels of the other was also explicitly allowed (Malloy 1910, 303-304). But as Fletcher Webster had stated four and a half years earlier, the questions now “connected with this topic” were not only trade and navigation with the mainland but also passage over the Isthmus. The abolition of discrimination and guarantee of national treatment was in no small part a means of assuring that no other power would win exclusive privileges in trans-Isthmian commerce.

That assurance was elaborated in Article XXXV, which also contained the crucial concession the United States made in return: its guarantee of Isthmian neutrality and Granadian sovereignty.

And, in order to secure to themselves the tranquil and constant enjoyment of these advantages, and as an especial compensation for these advantages, ...the United States guarantee, positively and efficaciously, to new Granada, by the

present stipulation, the perfect neutrality of the before-mentioned isthmus, with the view that the free transit from one to the other sea may not be interrupted or embarrassed in any future time while this treaty exists; and, in consequence, the United States also guarantee, in the same manner, the rights of sovereignty and property which New Granada has and possesses over the said territory. (Malloy 1910, 312)

The treaty was ratified by the U.S. Senate on June 3, 1848, a full year and a half after its signing. Parks (1935, 209) lists as the obstacles to its ratification the “alliance character” of the thirty-fifth article, the nearly equal strength of Democrats and Whigs in the Senate, and the active lobbying of the British and French against the treaty. Nevertheless, when at last it came to a vote after less than one day of debate, twenty-nine senators voted yes and seven no. He concludes that “opposition to the thirty-fifth article must have been only slight”; presumably “the British menace might have caused the Senate to forget its objection” to the article (Parks 1935, 213).

The conclusion is sound, as far as it goes, but it elides the other question that had become connected with the topic. Of the twenty-nine senators voting for the treaty’s ratification, only four were from Adams’s and Clay’s Whig Party, none of them from farther north than Pennsylvania. Of the seven voting against, all were Whigs, none from farther south than New Jersey (U.S. *Senate Exec. Journal* 1848, 3 June; *Biographical Directory of the United States Congress*). If opposition to the thirty-fifth article was slight, the reason was not mainly that apprehension of the “British menace” caused the senators to overcome their objection. Rather, the principle grounds for objection had shifted. Because of its connection to the logistics of annexation, the U.S.-Colombia treaty had become a proxy issue in the growing controversy over slavery.

Conclusion

To claim that the foregoing history either recommends or counsels against the pending U.S.-Colombia Trade Promotion Agreement would be extravagant. It does, however, offer at least three relevant reflections.

First, Senator Henry Reid's recent statement that such agreements are unsuitable as "a sensible and sustained international public policy" to aid friendly governments is belied by the past record of U.S.-Colombia commercial diplomacy.⁵ The treaty of 1824 was directed largely, and successfully, to that end.

Colombian Foreign Minister Pedro Gual observed British and European intrigues in the hemisphere with the same wariness as did John Quincy Adams and Henry Clay. All of them expected that the treaty would solidify the inter-American ties that the Monroe Doctrine presumed. The presence of U.S. ships, merchants, and goods, as much as Monroe's declaration, would frustrate the designs of Europe and Britain to implant anti-republican forms of government in Colombia and prod them to recognize its independence. The treaty "was not more desired for the sake of rendering fixed and permanent our own commercial relations," Chargé Anderson reported from his interview with Gual, "than it was for the effect he thought it would have on European governments" (*Despatches*, 29 Dec. 1823). Within the next two years, and particularly given Great Britain's recognition of Colombian independence in 1825, Minister Gual's (and Adams and Clay's) expectation was validated.

Second, bilateral commercial agreements, as ardent free traders know well, may be consistent with the objectives of protectionism just as much as (or more than) free

⁵ "Propuesta del Presidente sobre Tratado de Libre Comercio con Colombia es una continuación de sus políticas públicas fracasadas." Press release from the office of Senator Reid, April 7, 2008. Washington, DC. http://reid.senate.gov/espanol/prensa/pr_040708_colombia_tlc.cfm. Consulted May 10, 2008.

trade. This is true even of those forms of bilateralism which, because they are based on the same MFN principle at the foundation of the present-day multilateral forum for trade liberalization, the World Trade Organization, might be thought best to promote liberal trade.

Even such a peerless chronicler of U.S. foreign policy in the period as Bemis ([1949] 1973, 448) makes the mistake of suggesting the Adams's advocacy of reciprocity on the basis of the MFN principle advanced unambiguously the aim of "equality of commercial opportunity"; that it represented a firm stand "against any compromise with the original American principles of nondiscrimination" (452), for "reciprocity of equal treatment" (452), and for "reciprocal freedom of commerce with all nations and colonies" (468). In fact, Adams, like Clay, was protectionist in his trade policy, and in that rather crucial respect, if not in respect of navigation, was strongly in favor of discrimination. He favored commercial reciprocity treaties based on the MFN principle precisely because they were consistent with his protectionism. His view of the consistency of such treaties with protectionism did not prevent President Polk, who had campaigned in part for a retreat from protectionism toward more liberal trade, from seeing the matter differently. In 1847, Polk presented to the Senate a U.S.-Colombia treaty signed the previous year and founded similarly on the MFN principle (with the added provision of national treatment in navigation). The same form of treaty was perceivable either as consistent with protection or, to borrow a term from the present day, a stepping stone toward freer trade.

Third, and related to the preceding point, the principal political parties of the United States have long had an uncertain relationship with reciprocity. Just as reciprocal commercial arrangements may be seen as serving either free trade or protection, they may also be seen as serving, or undermining, other goals that political

parties prize more highly. Why did Adams and Clay, allies in an incipient Whig party in 1824, promote a treaty so similar in content to that which, a generation later, a plurality of Whig senators (and, most vehemently, Whig Representative Adams himself) opposed? In the 1820s, Adams's and Clay's party saw a MFN treaty with Colombia as a means of expanding U.S. commercial might and moral influence in the hemisphere. In the 1840s, "expansion" connoted policies with different moral implications that most northern members of the party opposed with growing fervor. The salient expansion was that of the Slave Power, which required a secure Isthmian passageway to fuel it – or, perhaps, the blocking of the U.S.-Colombia treaty of 1846 to impede it.

One wonders whether changed political circumstances – a different party winning the executive office, for instance – might cause Senator Reid to change his mind. History, at least, would offer no reason for surprise if he decides within a year that the pending U.S.-Colombia agreement is consistent with a sensible international public policy, and even his favored trade policy, after all.

References

Annals of Congress. 1789-1824. Washington, DC.

Bemis, Samuel Flagg. [1949] 1973. *John Quincy Adams and the Foundations of American Foreign Policy*. New York: W. W. Norton & Co.

Biographical Directory of the United States Congress. 1774-2005. House Document No. 108-222. Washington, DC: Government Printing Office.

Campbell, Randolph B. "The Spanish American Aspect of Henry Clay's American System." *The Americas* 24 (1): 3-17.

Díaz-Callejas, Apolinar. 1997. Colombia-Estados Unidos: Entre la Autonomía y la Subordinación, de la Independencia a Panamá. Bogotá: Planeta Colombiana Editorial S.A.

Díaz-Callejas, Apolinar. 2005. "Oposición de Santander a un Tratado de Libre Comercio con Estados Unidos." *Boletín de Historia y Antigüedades* XCII (830): 575-584.

Diplomatic Instructions of the Department of State, 1801-1906. Series M77, U.S. Department of State Papers. United States National Archives, College Park, Maryland.

Despatches from U.S. Ministers to Colombia, 1820-1906. Series T33, U.S. Department of State Papers. United States National Archives, College Park, Maryland.

Herod, Joseph Rogers. 1901. *Favored Nation Treatment: An Analysis of the Most Favored Nation Clause, with Commentaries on its Uses in Treaties of Commerce and Navigation*. New York: The Banks Law Publishing Co.

Malloy, William M. 1910. *Treaties, Conventions, International Acts, Protocols and Agreements Between the United States and Other Powers, 1776-1909*. Senate doc. 357, 61st Cong., 2d sess. 2 vols. Washington, DC: Government Printing Office.

Manning, William R., ed. 1935. *Diplomatic Correspondence of the United States: Inter-American Affairs, 1831-1860*, vol. 5: *Chile and Colombia*. Washington: Carnegie Endowment for International Peace.

Martínez Delgado, Luís. 1972. *Panamá: su Independencia de España – su Incorporación a la Gran Colombia – su Separación de Colombia – el Canal Interoceánico*. Bogotá: Ediciones Lerner.

McGreevey, William Paul. 1971. *An Economic History of Colombia, 1845-1930*. Cambridge University Press.

Mejía Arango, Lazaro. 2007. *Los Radicales: Historia Política del Radicalismo del Siglo XIX*. Bogotá: Universidad Externado de Colombia.

Ocampo, José Antonio. 2007. "Librecambio y Proteccionismo en el Siglo XIX." Ch. 5 in Ocampo and Santiago Montenegro, *Crisis Mundial, Protección e Industrialización* (Bogotá, Grupo Editorial Norma): 279-336.

Officer, Lawrence. 2008. "Dollar-Pound Exchange Rate from 1791." MeasuringWorth.com.

Ospina Vasquez, Luís. 1955. *Industria y Protección en Colombia, 1810-1930*. Medellín: E.S.F.

Parks, E. Taylor. 1935. *Colombia and the United States, 1765-1934*. Durham, North Carolina: Duke University Press.

Pletcher, David M. 1973. *The Diplomacy of Annexation: Texas, Oregon, and the Mexican War*. University of Missouri Press.

Reeves, Jesse S. 1967. *American Diplomacy Under Tyler and Polk*. Gloucester, Mass: Peter Smith.

Rippy, J. Fred. 1929. *Rivalry of the United States and Great Britain Over Latin America (1808-1830)*. Baltimore: The Johns Hopkins Press.

Rivas, Raimundo. 1915. *Relaciones Internacionales entre Colombia y los Estados Unidos*. Bogotá: Imprenta Nacional.

Rivas, Raimundo. 1961. *Historia Diplomática de Colombia, 1810-1934*. Bogotá: Imprenta Nacional.

Taussig, Frank W. 1892. *The Tariff History of the United States*, 2nd ed. New York: G.P. Putnam's Sons.

U.S. Bureau of the Census. 1975. *Historical Statistics of the United States, Colonial Times to 1970*, Bicentennial ed., part 2. Washington, DC: U.S. Government Printing Office.

U.S. *Senate Executive Journal*. 1789 -. Washington, DC.