

The 1937 International Sugar Agreement: Neo-Colonial Cuba and Economic Aspects of the League of Nations

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Abstract

To many in the West, the League of Nations was to establish political peace between nations. To the Cuban sugar-producing elite of the 1920s and 1930s, however, the League was an important socioeconomic institution used to augment many of Cuba's first modern state institutions. This article explores how and why Cuban delegates were the principals behind the 1937 International Sugar Agreement – one of the League's few operational economic treaties. This treaty sheds light onto how actors from the so-called industrial core and agricultural periphery used international law, institutions, and practice to negotiate and renegotiate their relationship with each other.

Key words

Cuba; international trade law; League of Nations; periphery; sugar

I. INTRODUCTION

When Luis Marino Perez, the Cuban commercial attaché in Washington, DC, stood before other League of Nations delegates at the 1927 World Economic Conference, he was careful as to how he articulated Cuba's interests.¹ The predominant sentiment expressed by European and North American League delegates was that access to raw materials for industry and foodstuffs was necessary to ensure Europe recovered after the war.² Thus, in Marino's opening speech, he emphasized how the economies of Europe were linked to (Central and South) America. He nevertheless criticized the conference for focusing on the highly industrialized nations of Europe and not the countries of America that mostly depended on agriculture and raw materials as a source of wealth. But he quickly followed his sharp remarks by shifting the emphasis

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1 Economic and Financial Section, *Report and Proceedings of the World Economic Conference*, Vol. 1 (1927) (hereafter, 1927 WEC Report and Proceedings), at 149.
2 See, e.g., *Preparatory Committee for the International Conference, Report on the First Session of the Committee (held at Geneva from April 26th to May 1st, 1926)* (1926), 7–9; J. Gautie, A. Hermes, and H. A. F. Lindsay, *Agriculture and the World Crisis* (1927); *ibid.*, at 33, 46–8.

to Europe by maintaining that the successful conclusion of the conference was as crucial to the Americas as it was to Europe, 'because whatever tends to increase the prosperity of the Old World will also substantially and directly benefit America'.³

From the perspective of the sugar-producing elite who made up Cuba's delegation to Geneva, the League of Nations provided an important avenue to express and implement their socioeconomic plans. More broadly, we see how League actors used international law, institutions, and practice to define categories of core and periphery for the purpose of negotiating and renegotiating their relationship with each other. In the language of Prebisch, the centre or core of the world economy consisted of places where industrial goods were manufactured and historically reaped the most socioeconomic gains from international trade. The periphery comprised those places that depended on the production of primary products and historically gained less than the centre from international trade.⁴ League trade law would take for granted that there was an industrial core that relied on using primary resources from the agricultural periphery, but (as described below) it would then redefine the relationship between the core and periphery.

Accounts of the League of Nations often neglect the institution's economic aspects. This oversight likely arises because the League is usually examined through the lens of the Covenant, where there is only one very limited reference to any economic matters in the 'economic equality' provision, Article 23(e). On the rare occasion that the League's economic functions are mentioned, the common story told is that it consisted mostly of a series of failed conferences – the 1920 International Financial Conference focused on Europe's reconstruction, the 1927 International Economic Conference unsuccessfully attempted to stave off protectionist tendencies to improve world trade conditions, and the 1933 International Monetary and Economic Conference was an attempt to stabilize international currencies in response to the Great Depression.

Critical research into the economic functions of the League is only now emerging.⁵ Two things are missing from recent research, however. First, there is little examination of the League's doctrines – that is, the system of principles, rules, and procedures intended to implement the ideas derived from expert economic advice and delegates' demands. Three doctrines dominated League economic discourse of the time: rapprochement, 'freer' trade, and rationalization. Rapprochement was the general principle that political and economic co-operation was necessary to ensure peace. Freer trade was the idea that domestic tariff levels would be eventually reduced over time, but how fast and to what degree should be a matter of negotiation. And rationalization was the theory that it was necessary to stabilize and control economic conditions of production, distribution, and consumption in a way that ensured economic efficiency and improved a community's welfare.

3 1927 WEC Report and Proceedings, *supra* note 1.

4 See R. Prebisch, *The Economic Development of Latin America and Its Principal Problems* (1950). Immanuel Wallerstein would later expand upon this idea and add the category of the 'semi-periphery'.

5 S. Pedersen, 'Back to the League of Nations', (2007) 112 *American Historical Review* 1091, at 1108–9.

If any doctrine is mentioned in the few works that examine the economic aspects of the League, it is freer trade and, to a lesser degree, rapprochement, whereas rationalization has been neglected.⁶ Yet, the one League treaty that attempted to implement the League doctrine of freer trade was never popular amongst many League delegates and it would never come into operation.⁷ Conversely, the 1937 International Sugar Agreement (ISA) concluded under the auspices of the League epitomized rationalization and was one of the few of the League's economic treaties that were successful. In fact, sugar was one of only two agricultural products that would be regulated by an international trade agreement under the auspices of the League (the other was wheat).⁸

This leads to the second point: recent accounts primarily focus on the role of industrialized countries in League debates and operations and do not consider the role that so-called underdeveloped countries played in the institutional formation and innovations of the League. To the Cuban sugar elite, the League of Nations was not the same institution as imagined by those in Paris in 1919 – to them, the League had an important and viable socioeconomic function thought to be necessary to stabilize life in Cuba and augment the economic powers of the Cuban state. One way to counterpoise the common account of the League is to note how Cuban delegates successfully used League world economic conferences and doctrines to articulate certain Cuban interests.

I draw from the text of the 1937 ISA and League *travaux préparatoires* to guide my reference to a basic understanding of Cuban history in order to appreciate the implications of the Cuban delegates' drive for an international sugar agreement. Moreover, looking at the League of Nations through the lens of the Cuban sugar trade highlights the extent to which any evaluation of that institution's central idea and success is dependent on the perspective from which it is examined. It would be fascinating to situate the 1937 ISA within the broader international legal history of Cuba. And a longer historical purview would provide a useful understanding as to how the 1937 ISA relates to the history of international trade law.⁹ This article, however, can only provide a sketch of the relationship between Cuban sugar production and League economic doctrine in order to better understand the League.

Marino, in his speech, was attempting to assert Cuba's interest as a sugar-producing nation, but was careful to frame his country's interests in a way that did not directly challenge the position of industrialized countries. Indeed, Cuban officials were adept in navigating world powers, since Cuba was in between two colonial relationships. In 1902, Cuba achieved independence from Spain and then

6 One notable exception is J. Pemberton, 'New Worlds for Old: The League of Nations and the Age of Electricity', (2002) 28 RIS 311.

7 *International Convention for the Abolition of Import and Export Prohibitions and Restrictions*, 8 November 1927, 97 LNTS 391; M. Hill, *The Economic and Financial Organization of the League of Nations: A Survey of Twenty-Five Years' Experience* (1946), 45–7; W. M. McClure, *World Prosperity through the Economic Work of the League of Nations* (1933), 366; League of Nations, *Commercial Policy in the Interwar Period: International Proposals and National Policies* (1942), 33–45, 93 (hereafter, *Commercial Policy*).

8 G. Baer, *International Organizations 1918–1945: A Guide to Research and Research Materials* (1981), 159.

9 This longer historical account will be in my forthcoming work.

entered into a neo-colonial relationship with the United States through the Platt Amendment (discussed below).¹⁰

Jenks, in his classic study of the United States' economic imperial relationship with Cuba, links Cuba's role in the League with the emerging Cuban nationalist fervour of the 1920s:

A host of imponderables assisted to build up Cuban consciousness of national personality. Cuba had signed the Versailles treaty and joined the League of Nations in 1920. And when the American Senate refused to endorse the diplomacy of President Wilson, *Cuba was left for the first time in an international position where she was not under the wing of the United States*. The benefits of the expanded international horizon were emphasized in 1922 when a Havana jurist, A.S. de Bustamante, was chosen one of the judges of the World Court. In 1923, another Cuban lawyer, Cosmé de la Torriente, served as president of fourth assembly of the League. The rapidity with which Cubans have made their abilities recognized in the arena of world politics is further illustrated by the election of Cuba, for the year 1927–28, to a temporary seat on the Council of the League.¹¹

Negotiating the relationship with the United States was not the only reason that Cuban delegates may have looked to the League to rally support for an international sugar agreement. Other international commodity agreements were independent from the League. And, in fact, the Cuban sugar elite were part of an attempt to organize a sugar agreement among the world sugar producers through the efforts of a Wall Street lawyer, Thomas Chadbourne. The 1931 Chadbourne Agreement, however, failed, since the United States (and its sugar-producing colonies) and many European countries did not sign on. The major sugar producers of the world suggested drafting an agreement through the League in order to include sugar-importing countries and encourage more universal membership.¹²

The Cuban delegation, refuted by the United States in their requests for more sovereignty and still in the midst of a sugar crisis,¹³ went to the 1927 World Economic Conference asking for the creation of an international sugar agreement. In doing so, they used the League as a forum to advocate for an agreement that would both stabilize the international price of sugar and negotiate increased economic sovereignty from the United States. Cuban delegates would continue to employ League economic doctrines and request the formation of a sugar treaty at every League economic conference until they finalized the 1937 ISA. The sugar treaty would define states' power in relation 'to international trade in that the representation of a state was determined exclusively by the extent of its dealings in sugar'.¹⁴ Since Cuba was the largest producer of sugar, this treaty actually granted Cuba greater economic power in the world economy.

Within the League, there was disagreement as to the definition of and relationship amongst rapprochement, freer trade, and rationalization. Cuban delegates adopted

10 L. H. Jenks, *Our Cuban Colony: A Study in Sugar* (1928); J. I. Dominguez, *Cuba: Order and Revolution* (1978).

11 Jenks, *supra* note 10, at 271 (emphasis added).

12 G. von Graevenitz, 'Changing Visions of the World Sugar Market in the Great Depression', (2008) 15 *European Review of History* 727, at 738.

13 R. Smith, *The United States and Cuba: Business and Diplomacy, 1916–1960* (1960), 49–50, 120.

14 H. A. Freeman, 'International Administrative Law: A Functional Approach to Peace', (1948) 57 *Yale Law Journal* 976, at 979.

the more popular configuration of League doctrine and championed the notion that a stable world sugar market was a necessary part of rapprochement. Thus, the 1937 ISA illuminates how League economic doctrines were put into operation. The Cubans emphasized that respective governments, in order to ensure rapprochement, should regulate the world sugar market rationally. They also adopted the League assumption that the agricultural periphery had to ensure the industrialized core obtained the primary commodities necessary for manufacturing. As such, the treaty institutionalized the rationalization of the world sugar market by devising a production quota system negotiated between importer and exporter countries.

The League delegates from Europe gave speeches and wrote articles arguing against policies of 'economic nationalism' and 'self-sufficiency' because they feared that countries would raise tariffs and disregard the political and economic consequences in the world.¹⁵ This resonated with Cuban delegates, since the Cuban economy was extremely dependent on the export of sugar to the United States – and the United States' high tariffs and self-sufficiency policies ruined many lives in Cuba. It was during this time that renowned Cuban intellectual Ramiro Guerra y Sánchez turned attention towards Cuba's imperial relationship with the United States, foreshadowing some *dependentista* arguments approximately four decades later. Guerra's concern was that the United States was the metropolis that benefited from the high price of sugar, leaving Cuba little opportunity for economic development.¹⁶

Marino's speech highlights that, even though Cuban delegates accepted the notion that there was a division between the core and periphery, they wanted to ameliorate the peripheries' dependence on the core. Sugar was Cuba's principal commodity and everyday life was acutely affected by fluctuating sugar prices. Cuban leaders and thinkers believed that an international sugar treaty was necessary to stabilize world sugar prices and increase Cuba's economic power but they also knew that this would only address global patterns of wealth distribution in the short term. Foreshadowing development policies of the 1970s, the Cuban elite thought that their only hope of weaning themselves off the dependency on sugar would be to diversify and industrialize their economy.

Accordingly, Cuban delegates linked League economic doctrines to Cuban national economic plans. First, the Cuban government wanted to stabilize the price of sugar in order to gain as much return from sugar exports as possible and to maintain social stability. Second, the government wanted to move away from depending on one commodity and planned to diversify its economy. The result was that the 1937 ISA empowered the sugar-producing periphery in relation to the industrial core. The Cuban state's gains in economic power, however, were still limited within the confines of a core–periphery relationship. League economic doctrine assumed that agriculture's interest was primarily to service the interests of industry. As such, a legal analysis reveals how the 1937 ISA further entrenched sugar producers'

15 Hill, *supra* note 7, at 1–13; McClure, *supra* note 7, at 410–13.

16 R. Guerra y Sánchez (translated by M. M. Urquidí), *Sugar and Society in the Caribbean: An Economic History of Cuban Agriculture* (1964 [1927]), 76. Guerra did not take an anti-United States stance but was arguing to improve conditions in Cuba.

dependence on the sugar-importing core and provided little to the peripheral sugar states in the way of fundamentally altering their economic and social structures, which relied on a single commodity.

2. ECONOMIC ASPECTS OF THE LEAGUE

2.1. Experience of war and rule by economic experts

When the League's institutional structure was being negotiated, not everyone conceded to a Wilsonian conception of the League that emphasized a political purpose. Two of the most famous calls for a League of Nations with broad economic function came from Jan Smuts¹⁷ and John Maynard Keynes.¹⁸ Despite their differences, Wilson,¹⁹ Smuts,²⁰ and Keynes²¹ were influenced by the inter-allied efforts to co-ordinate the supply of primary commodities and equipment in their thinking of how the League would address economic problems. During the First World War, the Allies responded to naval blockades and shortages of supply by co-ordinating their efforts and organizing the supply of goods. They created a series of inter-allied organizations that at first co-ordinated shipping purchases for the armed forces and later controlled commodities for civilian needs.²² These organizations linked together government departments by creating ongoing relationships: '[t]he French wool official dealt with the British and Italian wool officials and was not concerned with what his colleagues for cotton or timber or coal were discussing with the corresponding experts.'²³

This experience of the war transformed the conceptualization of the economic function of the state.²⁴ It provided evidence that governments could effectively and efficiently plan and manage the production and distribution of goods. The system of co-ordination was thought to be so successful that arrangements were made to use the organizations for the purpose of European economic relief and reconstruction – an idea that was supported by the fact that the inter-allied organization co-ordinated a large number of neutral countries' foodstuffs during the war.²⁵

Sir J. Arthur Salter headed the inter-allied co-ordination efforts and would carry this new conceptualization of the state through to the economic functioning of the League. Salter was the head of the Economic and Financial Section of the League from 1922 to 1931 and was considered by many to be one of its most influential and active directors.²⁶ Salter's words describing the principles he developed during the war

17 J. Smuts, *The League of Nations: A Practical Suggestion* (1918).

18 J. M. Keynes, *The Economic Consequences of Peace* (1920). See also D. Markwell, *John Maynard Keynes and International Relations* (2006), 54–89.

19 W. Wilson, 'Letter to Secretary Redfield' (29 October 1918), in R. Standard Baker (ed.), *Woodrow Wilson: Life and Letters*, Vol. 8 (1939), 587.

20 Smuts, *supra* note 17, at 24.

21 See, e.g., Sir A. Salter, 'Letter to John Maynard Keynes' (31 August 1938), in D. Moggridge (ed.), *Collected Writings of John Maynard Keynes*, Vol. 21 (1980), 474.

22 Hill, *supra* note 7, at 14–18.

23 J. A. Salter, *Allied Shipping Control: An Experiment in International Administration* (1921), 252.

24 Hill, *supra* note 7, at 13.

25 *Ibid.*, at 15–16; McClure, *supra* note 7, at 66–74.

26 Hill, *supra* note 7, at 109; McClure, *supra* note 7, at 66–74.

capture how the administration of economic policy during war informed the League's economic functions. In them are the traces of the concepts of rapprochement and rationalization (discussed below) that would permeate the League's economic policies and conferences:

[International administration] will work through the executive organization of national Governments. It will influence, co-ordinate, perhaps control their work. But it will not replace them. It will obtain its power, not from an authority conferred by delegation, but by continuous pressure and influence on the centres of national power. . . the method of direct contact over a wide surface, of linking these departments together by the association of their crucial officers, will prove more effective and successful than any form of external influence and control.²⁷

2.2. Economic doctrines

The consensus underpinning post-war world economic reconstruction was that decisive state action was necessary to reconstruct and manage the international economy so that economic interdependence could be maintained and encouraged, thereby securing prosperity and peace. The assumption was that experts would determine the ideal policy and the League would institutionally implement this ideal policy.

More specifically, the League's economic purpose was understood by many to be twofold. It was thought that the League had the ideational purpose of guiding public opinion, which meant citizens and governments, towards the adoption of sound economic and financial policies. Its practical purpose was considered to be the economic reconstruction of Europe.²⁸ The priority was to stabilize the world financial markets. The plan was that, once currencies were stabilized, then trade and commerce could normally occur between countries. With a stable international financial market, normal trade and commerce were to operate through several economic doctrines: rapprochement, freer trade, and rationalization. There was nonetheless great debate in terms of what each doctrine meant as well as disagreement as to the relationships of the doctrines with each other. By briefly outlining those debates, we can appreciate how the 1937 ISA institutionalized one particular and prevalent understanding of League economic doctrine.

2.2.1. *Rapprochement*

Much like Montesquieu's *doux commerce* thesis, according to League doctrine, commerce would lead to desired world peace and prosperity.²⁹ The League experts could not reach a definitive consensus regarding what specific mechanisms of co-operation would lead to peace and progress. One expert report written as part of the preparatory material for the conference distinguished between political and economic

27 Salter, *supra* note 23, at 254.

28 See, e.g., Secretariat of the League of Nations, *Ten Years of World Cooperation* (1930), 178–206; M. Fanshawe and C. A. Macartney, *What the League Has Done 1920–1936* (1936), 19–26; C. K. Webster and S. Herbert, *The League of Nations in Theory and Practice* (1933), 223–38; A. Salter, 'Contributions of the League of Nations to the Recovery of Europe', (1927) 134 *Annals of the American Academy of Political and Social Science* 132.

29 League of Nations, *The World Economic Conference: Geneva, May 1927 Final Report*, at 51 (hereafter, 1927 WEC Final Report).

approaches to 'economic rapprochement'.³⁰ The three political methods were multilateral commercial treaties, bilateral preferential systems, and customs unions. The report noted that multilateral commercial treaties, regulating states' systems of tariffs and duties, were ideal but very difficult because of the complex character of classifying goods. The report was reluctant to endorse bilateral preferential treaties because they would lead to protectionism (i.e., high tariffs) and hinder free trade. The report thought a customs union was ideal for Europe, which could model itself upon how the different states in the United States functioned as one market. The report defined the economic method to be about international economic rapprochement among individual producers and concluded they were problematic because it granted producers too much power.³¹

Amongst these different options, delegates at the economic conferences mostly focused on and fiercely debated between two specific doctrines of economic rapprochement: the economic method in the form of industrial agreements amongst states under the doctrine of 'rationalization' and the political method in the form of multilateral commercial treaties under the doctrine of 'freer trade' or 'liberty of trade'.

2.2.2. 'Freer' trade

The theory of free trade was so contentious that many felt it wise that conference delegates deliberately avoid the issue between 'free-traders' and 'protectionists'.³² Those labelled 'free traders' thought that the ideal policy was the complete removal of tariffs as soon as possible.³³ Others, critically labelled 'protectionists' or sympathetically called 'tariff reformers',³⁴ were concerned that free-traders failed 'to take into consideration the varying level of economic development among the different nations of the world' and did not appreciate the power imbalance between industrialized and agricultural countries.³⁵

Conference delegates at the world economic conferences, authors of conference final reports, and commentators in articles emphasized that they were advocating for 'liberty of trade' or 'freer trade', which, as they would almost always state, was not to be confused with 'free trade'.³⁶ 'Freer trade' was understood to be a policy geared towards halting tariff increases and moving to reduce, if not eventually remove, tariffs.³⁷

30 E. Grossman, *Methods of Economic Rapprochement* (1926).

31 *Ibid.*, at 26.

32 Sir A. Salter, 'The League's Contribution', in R. W. Boyden (ed.), *The Economic Consequences of the League: The World Economic Conference* (1927), I, at 5.

33 See, e.g., H. Colijn, 'The World Economic Conference of 1927', (1927) 134 *Annals of the American Academy of Political and Social Science* 140.

34 See, e.g., 'Comments by Sir John Power', in A. Salter, 'The Economic Conference: Prospects and Practical Results', (1927) 6 *Journal of the Royal Institute of International Affairs* 350, at 363.

35 A. Balfour, 'International Chamber of Commerce', (1927) 134 *Annals of the American Academy of Political and Social Science* 124, at 127. See also J. M. Keynes, 'Pros and Cons of Tariffs', *The Listener*, 30 November 1932, reprinted in Moggridge, *supra* note 21, at 204.

36 See, e.g., Theunis, *infra* note 45, at 10; Economic and Financial Section, 'Extract from the Minutes of Meetings on the Council', *Report and Proceedings of the World Economic Conference*, Vol. 1 (1927), 21–7 (C.356.M.129; C.E.I.46).

37 1927 WEC Final Report, *supra* note 29, at 31.

War and naval blockades forced countries to adopt economic policies of high tariffs and self-sufficiency.³⁸ During this time, despite the experts' best efforts to convince governments and the public of what they felt was a pragmatic policy, rising tariff levels and economic policies of 'self-sufficiency' continued after the First World War and into the Second.³⁹ The consensus was then that eventually tariffs should be lowered and that trade should be made 'free', but the divisive question when debating 'freer trade' was about how soon and to what degree should tariffs be reduced (much like debates within the WTO).⁴⁰

The orthodox thinking amongst League experts was that rising levels of tariffs were symptomatic of an international economic system that was not functioning normally. The tariffs were thought to be remnants of exceptional, wartime economic policies emphasizing self-sufficiency and prohibiting imports and exports. Therefore, League experts made a determined effort to remove the barriers to trade in order to revert back to prewar 'normal' trade relations.⁴¹ It was thought that certain political and financial preconditions had to be met before trade could be free; there needed to be political stability, financial and monetary stability, and the improvement of transportation before trade could revert to what was thought to be normal.⁴²

2.2.3. Rationalization

According to one delegate, 'the heading "rationalization", a word like "solidarité" and "homme de bonne volonté", seems to thrive in the air of international [economic] conferences'.⁴³ The final report for the 1927 World Economic Conference defined rationalization to be:

the methods of technique and of organization designed to secure the minimum waste of either effort or material. It includes the scientific organization of labour, standardization both of material and of products, simplification of processes and improvements in the system of transport and marketing.⁴⁴

The delegates, however, did not come to a clear consensus as to the merits of rationalization as a viable way to make industry more efficient.⁴⁵ This debate was framed as whether rationalization, an idea thought to have proved successful in

38 Salter, *supra* note 34, at 353.

39 A. Hermes, no title, in Boyden, *supra* note 32, at 73; Webster and Herbert, *supra* note 28, at 231–2.

40 See, e.g., Economic and Financial Section, 'Report Submitted to the Commerce Committee by Its Coordination Committee', *Report and Proceedings of the World Economic Conference*, Vol. 2 (1927), 118.

41 See, e.g., Information Section, *The Monetary and Economic Conference (London, 1933): An Account of the Preparatory Work for the Conference and an Outline of the Previous Activities of the Economic and Financial Organisation of the League of Nations* (1933), 66–7.

42 See, e.g., League of Nations, 'III – Resolutions Proposed by the Commission on International Trade and Adopted Unanimously by the Conference', in *International Financial Conference Brussels 1920, Proceedings of the Conference*, Vol. 1 (1920), 22–3; A. Salter, 'The Economic Causes of War', in A. Salter et al. (eds.), *The Causes Of War: Economic, Industrial, Racial, Religious, Scientific, and Political* (1932), 1, at 14–15; Preparatory Commission of Experts, *Monetary and Economic Conference; Draft Annotated Agenda* (1933).

43 W. L. Runciman, 'The World Economic Conference at Geneva', (1927) 37 *Economic Journal* 465, at 468; P. Jacobsson, 'The Theoretical Solution', in Boyden, *supra* note 32, at 49. Cf. Pemberton, *supra* note 6.

44 1927 WEC Final Report, *supra* note 29, at 41.

45 *Ibid.*, at 11–12 (M. Theunis, President of the Conference, 'General Survey and Summary').

practice in the United States, was applicable in Europe at this time. Many questioned whether Europe's devastated infrastructure and economy were actually capable of implementing rationalization policies.⁴⁶ Others were concerned that rationalization would decrease wages and employment, thereby further exacerbating dire work conditions.⁴⁷

Moreover, even though a large number of experts advocated for increased rationalization, there was disagreement as to what was the best method of rationalization.⁴⁸ The debate ranged between two approaches. Those that advocated for 'scientific management' wanted to leave rationalization to standardizing products, materials, machines, tools, and methods.⁴⁹ From industry's perspective, rationalization's purpose was to stabilize and control economic conditions of production, distribution, and consumption in a way that increased a community's welfare by cheapening, multiplying, and improving the quality of commodities produced.⁵⁰

The others that called for 'cartels' or 'industrial agreements' wanted to control and co-ordinate production and distribution (with an eye to influencing consumption) through mechanisms such as quotas, granting of monopolies, or formations of trusts.⁵¹ These agreements would not determine the price 'by marginal or average cost, but [act] as an instrument for the administration of industry, so as to prevent the fluctuations which take place around the market'.⁵² The main criticism of the industrial-agreement argument was that the price system of the market, rather than government-imposed monopolies, was a most efficient mechanism to regulate the flow of labour, goods, and capital.⁵³

3. WRITING NEO-COLONIAL CUBA INTO THE HISTORY OF THE LEAGUE

Cuban delegates would employ the economic discourse of the League and successfully advocate for an international sugar agreement that adopted the doctrine of

46 See, e.g., C. Lammers, 'The Cartel Question at the World Economic Conference' (translated by K. Scholz), (1927) 134 *Annals of the American Academy of Political and Social Science* 145.

47 Economic and Financial Section, 'Summary of Minutes, Second Committee (Industry)', *Report and Proceedings of the World Economic Conference*, Vol. 2 (1927), 129–47.

48 See, e.g., H. de Peyerimhoff, 'Rationalisation of Industry', in Boyden, *supra* note 32, at 132. See also J. Hirsch, *National and International Monopolies from the Point of Labour, the Consuming Public and Rationalisation* (1927) (C.E.C.P. 99); W. Oualid, *Social Effects of International Industrial Agreements: The Protection of Workers and Consumers* (1926) (C.E.C.P. 24) (memoranda released for publication for the Preparatory Committee for the World Economic Conference, 1927).

49 See, e.g., H. S. Pearson, 'Scientific Management and Cartels', in *Two Memoranda Presented at the World Economic Conference May 1927* (1927) (starts on p. 1); D. Houston, *Memo on Rationalization in the United States* (1927) (memoranda released for publication for the Preparatory Committee for the World Economic Conference, 1927).

50 H. M. Spitzer, 'Rationalization and Cartels', in *Two Memoranda Presented at the World Economic Conference May 1927* (1927), 1.

51 D. H. MacGregor, *International Cartels* (1927); P. de Rousiers, *Cartels and Trusts and Their Development* (1927); K. Wiedenfeld, *Cartels and Combines* (1927) (memoranda released for publication for the Preparatory Committee for the World Economic Conference, 1927).

52 MacGregor, *supra* note 51, at 6.

53 G. Cassel, *Recent Monopolistic Tendencies in Industry and Trade: Being an Analysis of the Nature and Causes of the Poverty of Nations* (1927) (memorandum released for publication for the Preparatory Committee for the World Economic Conference, 1927).

rationalization. What is remarkable is that, despite the lack of unanimity at general League economic conferences, the treaty put into effect specific and popular conceptions of League economic doctrine: that international agreements were necessary to rationally stabilize markets before tariffs could be reduced. In order to appreciate the context of how and why the legal structure and function of the 1937 ISA enacted League doctrine, we must first query how and why Cuban government officials were the principals behind an international sugar treaty.

The social, political, and economic conditions of sugar production in Cuba provide context of what likely influenced Cuban delegates to adopt the economic discourse of the League. Part of these conditions included Cuban sugar planters' transnational relationship with the US government and financiers. Even though the Cuban sugar elite had close ties to the United States, they used the League to renegotiate this relationship. This was because the United States devised reciprocity treaties to regulate international economic relations that determinately affected the lives of many in Cuba – and, because these treaties contravened League consensus, Cuban delegates has some added opportunity to express their interests through international institutions.

3.1. Cuba as a transnational sugar story

Cuba, much like other former colonies, benefited from the 'European' war. When European sugar-beet fields were ravaged by war and the Allies needed to ensure a steady supply of sugar, Cuban sugar-cane producers experienced an economic boom.⁵⁴ Because Cuba continued to depend on sugar after the war, Cuban delegates agitated for an international sugar agreement starting from 1927 until the League sugar treaty was concluded in 1937. In light of the League's concern with Europe, the Cuban delegates made sure to couch their demands as part of European interests.⁵⁵

For the first two decades of Cuban independence from Spain, sugar mills provided the main source of social and economic development for communities. Indeed, the production of sugar stratified social dynamics in Cuba. Sugar cane needed to be harvested by agricultural workers, and then had to be processed by a mill near the sugar-cane fields. The mill would extract raw sugar in order to send it to a refinery (often in a more industrialized economy) that would then produce refined sugar for the purpose of consumption. Moreover, sugar provided transnational commercial ties between US finance and the Cuban elite. The sugar mills in Cuba were often financed or owned by US businessmen and banks. The Cuban sugar-mill elite had close personal ties with these US financiers, were often educated in US schools, or had business ventures situated in the US market.⁵⁶

'Sugar barons' and their families owned and ran large-scale sugar-mill complexes (*centrales*) throughout Cuba. These elite mill owners created sugar-mill towns, providing health care, education, electricity, radio stations, railroads, and social services to the hundreds of workers and their families. Nevertheless, the sugar patri-

54 Jenks, *supra* note 10, at 175–205.

55 1927 WEC Report and Proceedings, *supra* note 1, at 149. See also Smith, *supra* note 13, at 49–50, 120.

56 See C. J. Ayala, *American Sugar Kingdom: The Plantation Economy of the Spanish Caribbean, 1898–1934* (1999).

archs considered their acts of philanthropy to be mechanisms of social control and worker appeasement. They did not hesitate in beating or exiling workers thought to be rebellious or disruptive and suppressed any worker movement to organize.⁵⁷

Many sugar mills received their raw sugar from surrounding cane farmers (*colonos*). *Colonos* were from a variety of backgrounds. Many were political bosses who were leaders in the 1895–98 war of independence against Spain. Moreover, amongst the *colonos*, there were disparities in economic power. Some grew cane on their own land, some rented out their land to *subcolonos*, while others farmed on land rented from a *central*. *Colonos* had a tenuous relationship between the *centrales* and US financial interests. The *colonos* would sometimes present themselves to the government and business community as partners with the sugar-mill corporation for the purpose of sugar export – the planters provided the labour and sugar while the sugar mill would provide the railroads, mills, and access to international markets. Other times, the *colonos* would present themselves as nationalist Cuban farmers who were the largest employers of Cuban labour and oppressed by US interests and elite sugar-mill owners. There were times when the *colonos* would organize themselves, threatening to strike in order to negotiate better returns from the corporations.⁵⁸

Up until the 1920s, the *centrales* and *colonos* were the primary source of social and economic welfare for most people in Cuba. It would not be until Gerardo Machado y Morales became president in 1925 that the Cuban state would play a more active role in the social and economic life of Cubans.⁵⁹ Indeed, by the 1920s, a distinctive Cuban sugar interest was forming that represented a significant economic class that had close ties to or was overlapping with the Cuban political class. This coincided with an increase in Cuban nationalist rhetoric. Thus, the Cuban state, starting with Machado's tenure, mostly represented the interests of the Cuban sugar-mill owners and *colonos*.

Moreover, the demarcation of 'US interests' and 'Cuban interests' was never very clear. Cuban sugar planters and mill owners relied on US finance and were at the mercy of US political decisions. What was complicated was that, even though US financial interests intertwined with Cuban sugar interests, the rising Cuban *colonos* and elite sugar interests were often at odds with US political interests. Cuban elites had begun to diversify their economic investments and amass more wealth than before.⁶⁰

3.2. Cuba and its neo-colonial relationship with the United States

Cuba's relationship with the United States, starting from its independence from Spain in 1902 until the 1958–59 revolution, was marked by various degrees of political and economic dependence.⁶¹ Through the 1902 Reciprocity Treaty, republican Cuba was a neo-colonial state in relation to the United States during this time – Cuba

57 G. McGillivray, *Blazing Cane: Sugar Communities, Class and State Formation in Cuba, 1868–1959* (2009), Chapters 4 and 5.

58 Ayala, *supra* note 56, at 121–47.

59 See McGillivray, *supra* note 57, at 126, 145–6, 189.

60 See Smith, *supra* note 13.

61 Dominguez, *supra* note 10.

maintained the semblance of formal political independence from the United States, but its economic policies were directly affected by decisions made in the United States or by US actors in Cuba.

Considering how central sugar was to every aspect of life in Cuba, the Cuban proposals for a sugar convention at three League of Nations economic conferences in 1927, 1933, and 1937 were an attempt by the Cuban state to exert economic sovereignty in response to domination by US financiers and United States-owned *centrales*.

Through the first half of the twentieth century, the United States maintained formal political and military influence over Cuba. The United States also held powerful economic influence over Cuba through a series of domestic sugar legislation and bilateral reciprocity trade treaties. The US State Department considered the Reciprocity Treaty to be a way to stimulate the Cuban sugar economy (which was dominated by United States-owned sugar mills) and ensure that the United States had a monopsony on Cuban sugar.⁶² Thus, the Cuban economy depended not only on sugar, but also on the United States. From 1920 to 1933, especially during Machado's presidency, Cuban government officials and Cuban industry vigorously lobbied the US government to keep sugar tariffs low and preferential amounts high. Despite Cuban sugar's preferential access to the US market, the US government often set tariffs so high that they offset the benefits of the preferential rate for Cuban sugar – Cuban sugar producers were adversely affected because they could not compete with domestic sugar. The fluctuating price of sugar further frustrated Cuban sugar producers and added considerable instability.⁶³ Some workers sang songs tinged with anger and irony, expressing their frustration with the US government's ability to dictate the fate of their lives with its domestic sugar quotas.⁶⁴

3.3. Rationalization and Cuban sovereignty

Recall that rationalization was a popular domestic and international economic policy during the interwar period. The emerging Cuban state would attempt to rationalize the domestic production of sugar, co-ordinate the rationalization of global sugar production, and rationalize the export of Cuban sugar. The Cuban government did this because it had little control over capital in Cuba, leaving only trade policy as the principal policy tool to serve domestic needs of economic development. Moreover, the Cuban state would use rationalization to seek more freedom from the United States so it could dictate its own economic policies.

After Machado was overthrown on 1 January 1934, the United States started negotiating a new Reciprocity Treaty.⁶⁵ Many Cubans thought that the revolution would change Cuban politics and economics. US laws, however, ensured that the Cuban economy remained dependent on sugar and the United States. The new treaty had much the same effect as its 1902 predecessor and ensured that Cuba

62 L. A. Pérez, *Cuba under the Platt Amendment 1902–1934* (1986), 122.

63 Smith, *supra* note 13, at 42–71.

64 McGillivray, *supra* note 57, at 1. See also *ibid.*, at 71.

65 McGillivray, *supra* note 57, at 223.

would remain dependent on sugar until the 1950s.⁶⁶ The Reciprocity Treaty, as part of the New Deal, was coupled with the 1934 Jones-Costigan Act.

The Cuban economy was hurt by the way the Jones-Costigan Act set quotas. The Act set import quotas based on previous years of production during which Cuba had voluntarily reduced its production (because of the 1931 Chadbourne Agreement) in an attempt to raise sugar prices and counter the sugar depression. As a result, Cuba was locked into a quota that was far below 1925 levels.⁶⁷ The post-1933 Cuban elite agreed to the treaty and US sugar laws because they thought that they had to ensure, at least in the short term, that Cuba had access to a stable sugar market.

The Cuban partial response to the US sugar laws and Reciprocity Treaty was the 1937 Sugar Coordination Act. To some Cubanist historians, this Act epitomized the post-1933 empowerment of the *colonos*. The Sugar Coordination Act would be the cornerstone of the Cuban economic and political system until 1959. It regulated the production of sugar cane in favour of the *colonos*. The Act provided a minimum quota for the grinding of cane from *colonos*, fixed the *colonos* rent at a very low rate, and linked the wages of workers to the price of sugar.⁶⁸ In response to the United States, the interests of *colonos* and Cuban sugar-mill owners were coalescing into a *Cuban* sugar-producer interest. Thus, the 1937 ISA was part of this same effort to respond to US sugar laws and improve the interests of Cuban sugar planters and construct the new Cuban state all within the gambit of rationalization.

3.4. Cuba and world sugar crises

During the First World War, the same system of commodity control that was intended to ensure the supply of essential goods to Allied forces and war-ravaged Europe would contribute to Cuba's economic boom.⁶⁹ The US and British governments would purchase Cuba's entire sugar crop at a controlled yet profitable price. As such, Allied Europe's primary source of imported sugar was Cuba and Cuba's only export market was the Allied countries.⁷⁰ It is likely that the Cuban sugar producers' wartime experience, much like Salter, would influence their decision to later advocate for and create an international sugar agreement based on theories of rationalization.

The system of price control ended after the war in November 1919. Even though Cuban sugar producers were not pleased by a system of price control during the war, they were impressed in the last two years by the system with the advantages of a stable price.⁷¹ After the wartime system of price control ended, the price of Cuban

66 Ibid., at 260.

67 Ayala, *supra* note 56, at 239–340.

68 Ibid., at 241; McGillivray, *supra* note 57, at 243; Dominguez, *supra* note 10, at 85; B. Pollitt, 'The Cuban Sugar Economy in the 1930s', in B. Albert and A. Graves (eds.), *The World Sugar Economy in War and Depression 1914–40* (1988) 97, at 98.

69 Jenks, *supra* note 10, at 207; J. W. F. Rowe, *Studies in the Artificial Control of Raw Material Supplies* (1930) (Memorandum No. 23), 5, 42.

70 Rowe, *supra* note 69, at 4; H. C. Prinsen Geerligs and R. J. Prinsen Geerligs, *Cane Sugar Production 1912–1937* (1938), 14.

71 Jenks, *supra* note 10, at 215.

sugar in New York fluctuated so radically that it created a speculation frenzy called the 'dance of the millions'.⁷²

All this came crashing down in 1920, when the price of sugar throughout the world rapidly dropped. While Europe was recovering from the Great War and entering a period of economic development, Cuba was devastated by a world sugar crisis.⁷³ Despite the crisis of 1920, the price of sugar remained at a profitable enough level for Cuban sugar producers to gradually recover.⁷⁴

Domestic Cuban banks, however, did not fare so well. During the Brussels International Financial Conference of 1920, Europe was looking to stabilize its currencies in order to improve economic conditions that would eventually rebuild Europe and increase world trade. Meanwhile, the Cuban financial crisis was far more dire. Domestic banks, all of which had lent money on sugar and mills, collapsed. North American banks remained as the sole financiers on the island.⁷⁵ These foreign banks found themselves possessing considerable equity in mostly domestic-owned sugar mills that had run into difficulty. Foreign investment in Cuba had previously been from foreign private parties. Now, foreign banks, such as National City Bank and the Royal Bank of Canada, were the primary sources of capital. The foreign banks' interests, which were already entangled with US Atlantic seaboard refineries importing raw Cuban sugar and private investors with capital in Cuba, now had a direct stake in Cuban sugar mills.⁷⁶

4. CUBA AND INTERNATIONAL SUGAR AGREEMENTS

One factor that would galvanize the different interests in Cuba would be the reaction against depending on sugar exports and the United States. Despite the 1903 and 1934 Reciprocity Treaties' granting Cuban sugar preferential access to the US market, many Cubans argued that this was not reciprocity. They contended that the United States only made concessions on a few products, since Cuba was only capable of exporting a small number of products, whereas Cuba made concessions on a wide range of products. Because Cuban sugar was granted preferential but not duty-free status, Cuban sugar producers had an advantage against other imported sugar in the United States. Indeed, Cuban sugar producers managed to practically displace full-duty sugar by 1912. However, Cuban sugar producers still had to ensure that its cost of production was low enough to compete with duty-free domestic and US colonial sugar.⁷⁷

Since US tariffs would fluctuate and rise, often to the detriment of Cuban sugar, Cuban sugar producers aligned with demands made at the League of Nations for the stabilization of tariffs under the heading of 'freer trade'. Moreover,

72 Ibid., at 206–28; Rowe, *supra* note 69, at 5.

73 B. Albert and A. Graves, 'Introduction', in B. Albert and A. Graves, *supra* note 68, at 6.

74 Rowe, *supra* note 69, at 5, 42.

75 Jenks, *supra* note 10, at 229–45.

76 Rowe, *supra* note 69, at 11–13.

77 Jenks, *supra* note 10, at 128–40; Dominguez, *supra* note 10, at 35; B. C. Swerling, *International Control of Sugar, 1918–41* (1949), 21; P. G. Wright, *Sugar in Relation to the Tariff* (1924), 64–5.

the instability of the ‘dance of the millions’ and ensuing sugar depression probably made the wartime system of price control seem like an ideal and viable idea. It also made the idea of an international treaty rationalizing the production and distribution of sugar a very attractive plan to both Cuban sugar producers and their US financiers.

4.1. The 1925 sugar crisis and 1927 World Economic Conference

While many continental Europeans and North Americans were enjoying the ‘Roaring Twenties’,⁷⁸ most Cubans were struggling through socioeconomic hardship. A sugar crisis struck the world sugar producers in 1925 when the rate of production far surpassed the rate of consumption. Cuba, which, by this time accounted for 25 per cent of the world’s sugar production, was hardest hit only a few years after recovering from the 1920 collapse of prices. The sugar crisis of 1925 in Cuba ushered in President Gerardo Machado y Morales; his administration would mark a time of both state building and social unrest in Cuba, culminating in riots, student revolts, and a military *coup d’état*.

Machado was also part of the struggle over different nationalist identities of the time; his was a ‘business nationalism’.⁷⁹ This ‘business nationalism’ characterized Cuban sugar producers’ interests (which dominated the Cuban government) well past Machado and throughout Cuban history until 1958. Machado politely but consistently attempted to gain increased political independence from the United States but made sure it was not tarnished with anti-United States sentiment and offence to US commercial interests; he still believed the welfare of Cuba was interlaced with the interests of the United States.⁸⁰

During the first two years of Machado’s administration, the state became active in national economic development and spent millions of dollars on public works projects.⁸¹ To be sure, Machado’s economic plan did not directly envision social welfare or improvement of the conditions of the poor and working class. Machado made it clear to US banks and financiers that he intended to maintain stability and contain the ‘radical’ forces of social unrest, most notably the labour movement and Communist Party, in order to ensure their investments in these public projects were secure (a promise that he kept by using violent repression). This was a development plan intended to benefit US financiers and Cuban entrepreneurs.⁸² Machado also stood to personally gain from his programme of public works because of investments in the Cuban Electric Company.⁸³

78 W. A. Lewis, *Economic Survey 1919–1939* (1949), 38–50.

79 Smith, *supra* note 13, at 113.

80 *Ibid.*, at 121; M. McAvoy, *Sugar Baron: Manuel Rionda and the Fortunes of Pre-Castro Cuba* (2003), 183; L. E. Aguilar, *Cuba 1933: Prologue to Revolution* (1972), 45–68.

81 L. A. Pérez, Jr, *Cuba and the United State: Ties of Singular Intimacy* (2003), 177–8.

82 *Ibid.*, at 178–9.

83 McAvoy, *supra* note 80, at 165.

Although Cuba and its government were dominated by US capital, Cuba-based sugar interests in the US Congress were subordinate to the interests of domestic producers and the United States colonial territories of Hawaii, Puerto Rico, and the Philippines.⁸⁴ Thus, Machado and US commercial interests in Cuba aligned to become one and the same. As the president of the American Chamber of Commerce of Cuba stated in 1926: 'If our commercial intention is to continue, we must identify ourselves with [Cuba's] purposes and make common cause with her in favour of her nationalistic program.'⁸⁵ Even though many Cuban mill owners feared the influence of US capital, the more the United States increased its tariffs on Cuban sugar, the more Cuban-owned and United States-owned mill interests united against this common economic impediment.⁸⁶

The Cuban state, however, was not simply a proxy for US commercial interests in Cuba. Machado also did not want to appear to his compatriots as a patsy for the Americans.⁸⁷ In an attempt to self-restrict sugar production, in 1926, the government passed legislation that called for a 10 per cent reduction in output for each mill but granted priority to sugar delivered from (Cuban) *colonos* over sugar from land owned by the (United States-owned) mills themselves. Even though this legislation was limited in scope and only lasted two years, it is indicative of how the Cuban state was negotiating the interests of US capital and Cuban planters.⁸⁸ After the 1933 revolution, the Cuban state's balance of interests would tip in favour of Cuban producers over US capital interest.

During the first two decades of independence, the Cuban government had little control over monetary policy and the foreign banks that dominated the island. Thus, it was left with experimenting with its trade policy to serve the domestic needs of economic development.⁸⁹ Cuban delegates were therefore eager to organize an international sugar agreement regulating world production in sugar at the 1927 World Economic Conference. While League delegates could not come to any sort of conceptual consensus regarding what definition of 'rationalization' would best ensure international economic stability and prosperity, the Cuban delegates presented a specific outline and advocated (though unsuccessfully) for an international sugar treaty that would control the price of sugar.⁹⁰

The attempt to create an international sugar agreement in the late 1920s reflected the balancing act of Cuban 'business nationalism'. It was 'nationalist' in that an agreement would provide the Cuban government control of sugar production, and it was 'business-friendly', since the majority of sugar produced in Cuba came out of United States-owned mills. Saving the Cubans' sugar industry would directly

84 Pollitt, *supra* note 68, at 98.

85 Quoted in Jenks, *supra* note 10, at 390, footnote 4.

86 Rowe, *supra* note 69, at 15.

87 McAvoy, *supra* note 80, at 185.

88 Pollitt, *supra* note 68, at 100. See also B. C. Swerling, 'Control of an Export Industry: Cuban Sugar', (1951) 33 *Journal of Farm Economics* 346, at 348.

89 Dominguez, *supra* note 10, at 33.

90 1927 WEC Report and Proceedings, *supra* note 1, at 89, 237–8 ('Note Submitted by the Cuban Members of the Conference on the Present Position of Sugar from the International Point of View').

benefit US investors, US banks, the Cuban elite, and US Atlantic seaboard refiners (who depended on Cuban raw sugar).

4.2. 1933: the World Monetary and Economic Conference and Cuban revolution

Even with some semblance of government control over social discontent, the Cuban economy was collapsing, wages were declining, and politicians were joining the opposition. Beginning with the general strike in 1930, workers, most of them under Communist direction, waged a continuous battle against the Machado government until he 'resigned' in 1933.⁹¹ Many in Cuba considered that no amount of domestic policy could save Cuba and relief would only come from international stabilization measures that would rationalize production.⁹² However, it would take multiple attempts before a final agreement was reached in 1937.

At the 1933 World Monetary and Economic Conference, the Cuban delegation made a detailed proposal for a sugar agreement. Their proposal stood in contrast to the League discussions, which remained at the level of generalities and focused on trying to find a conceptual consensus on what constituted freer trade. One reason the Cuban delegates brought forth a detailed proposal could be because they had learned their lesson from the League platitudes regarding the sugar crisis of the 1920s.⁹³ Moreover, much was at stake for Cuba to ensure a stable sugar market. The League conference spanned from 12 June to 27 July 1933; during this time, the Cuban delegates were negotiating against the backdrop of peasant revolts, labour strikes, student protests, the rise of the military's political power, and US embassy intrigue.

The US government was concerned that Machado's diversified economic interests in Cuba would mean he would not likely be amenable to allowing US imports to compete with his and his cronies' investments. They were also concerned with the rising political instability and sent Ambassador Sumner Welles to Havana in May 1933 to mediate between the competing political forces. Washington, DC, also instructed Welles to negotiate a reciprocal agreement with Cuba because it was thought that a new treaty would:

not only revivify Cuba but will give us practical control of a market we have been steadily losing for the past ten years not only for our manufactured products but for our agricultural products as well notably in such categories as wheat, animal fats, meat products, rice and potatoes.⁹⁴

Philip Jessup was hired by several US companies in order to suggest how to go about establishing a new reciprocity treaty with Cuba that would allow for the importation of US goods contra Machado's economic diversification plans.⁹⁵

91 Dominguez, *supra* note 10, at 51.

92 McAvoy, *supra* note 80, at 223–34; J. A. Guerra y Dében, 'Recent Evolution of the Sugar Industry', in Guerra y Sánchez, *supra* note 16, at 176.

93 Prinsen Geerligs and Prinsen Geerligs, *supra* note 70, at 28, 40.

94 'Welles to Secretary of State', 13 May 1933, 837.00/351, DS/RG 59, quoted in Pérez, *supra* note 62, at 305.

95 P. Jessup, 'Confidential Memorandum on the Cuban Situation', not dated (ca. early 1933), Philip Jessup papers, quoted in Pérez, *supra* note 62, at 303. See also P. Jessup, 'Negotiating Reciprocity Treaties', (1933) 27 AJIL 738.

Many of the Cuban delegates to the League – such as Orestes Ferrara y Marino,⁹⁶ Oscar B. Cintas,⁹⁷ Viritiato Gutiérrez Valladon,⁹⁸ and José Manuel Gómez Mena⁹⁹ – were commercially, personally, and politically close to Machado and his economic diversification plans that competed with US capital in Cuba. Moreover, Ferrara (who was the Cuban Secretary of State for Foreign Affairs and president of the delegation)¹⁰⁰ and Cintas (who was the Cuban ambassador to the United States)¹⁰¹ were hardly sympathetic to Ambassador Welles and had tried to directly negotiate more sovereignty in relation to the United States. In February of 1933, during student riots, Gutiérrez would usually travel well guarded in an armoured car.¹⁰² Ferrara's house would be ransacked less than a month after the end of the World Economic Conference.¹⁰³

These high stakes likely contributed to the Cuban delegates' insistence at the world conference that negotiations for a detailed sugar treaty between sugar producers and importers be conducted immediately.¹⁰⁴ The Cuban delegates' proposal embodied the League's economic doctrines. They intended to rationalize the world sugar industry by halting the construction of new sugar factories and reducing the production of existing factories.¹⁰⁵ They also proposed a freer trade policy that disallowed the increase of the tariff on duties to no more than a certain rate.¹⁰⁶ Cuban delegates stipulated that no new subsidies be granted to the production or export of sugar in an effort to raise sugar prices.¹⁰⁷ Participants at the World Economic Conference could not come to an agreement, the Cuban delegation withdrew its proposal, and the matter was left to the League Conference Bureau to continue work towards further negotiations.¹⁰⁸

One month after the 1933 conference, social unrest in Cuba turned to revolution. This was a time of anti-imperialists protest, labour strikes, student uprisings, pro-United States manoeuvres, and military empowerment; these turbulent times of competing popular movements complicate historical determinations of what social changes were ushered in by the 1933 revolution.¹⁰⁹ On 12 August 1933, Cuban Army officers 'asked' President Machado to resign. Machado agreed and, by resigning,

96 Pérez, *supra* note 62, at 144, 229, 303; McAvoy, *supra* note 80, at 91, 96–7, 165.

97 Pérez, *supra* note 62, at 310, 312–14; Aguilar, *supra* note 80, at 140–1.

98 McAvoy, *supra* note 80, at 150, 165, 196, 202.

99 *Ibid.*, at 183, 214–15, 225.

100 Pérez, *supra* note 62, at 154–5; Aguilar, *supra* note 80, at 110–11, 148–9.

101 Pérez, *supra* note 62, at 310, 312–14; Aguilar, *supra* note 80, at 140–1.

102 McAvoy, *supra* note 80, at 241–8.

103 'Cuba: Loot the Place!', *TIME*, 21 August 1933, available online at www.time.com/time/magazine/article/0,9171,753906-1,00.html.

104 League of Nations, *Journal of the Monetary and Economic Conference* 112, 28 June 1933, and 116–17, 29 June 1933.

105 Art. I, 'Annex: Articles as Submitted by the Cuban Delegation', in League of Nations, *Journal of the Monetary and Economic Conference* 116–17, 29 June 1933.

106 Art. III, *ibid.*

107 Art. II, *ibid.*

108 League of Nations, *Journal of the Monetary and Economic Conference* 200, 20 July 1933. See also 'Sugar at the World Economic Conference', (1933) 25 *International Sugar Journal* 293.

109 See, e.g., MacAvoy, *supra* note 80, at 245–58; Smith, *supra* note 13, at 144–64; Aguilar, *supra* note 80; Pérez, *supra* note 81, at 178–201; J. Mañach, 'Revolution in Cuba', (1933/34) 12 *FA* 46.

acquiesced to US Ambassador Welles's plans.¹¹⁰ The post-1933 Cuban government was beleaguered by political instability, violent clashes, and frequent rotation of the presidency – an office that often relied on Batista's military support until Batista became president in 1940.¹¹¹

The Cuban political order in 1933–34 went through interrelated changes: a change in the form of US government control in Cuba and an increase in the Cuban government's independence from the United States. In the past, the US government had been concerned with the details of internal rule. After 1933, the US government's primary concern was the overall structure of the Cuban political system:

the identity of the incumbents mattered to the United States only when it affected the legitimacy and stability of the system as a whole. The United States would no longer mediate between rivals for power who accepted the basic rules of the game.¹¹²

The role of US investors would also change. By 1933, US capital was losing some of its previous influence in Cuba, while Cuban entrepreneurs' clout grew. After 1934, there was no report of any Cuban mill passing into foreign ownership.¹¹³ Of course, US commercial interests in Cuba still had a significant presence, especially since most of the Cuban commercial and political elites (which were virtually one and the same) had financial interests or direct involvement as executives in US companies in Cuba.¹¹⁴

As always, Cuban state politics involved a constant negotiation of power amongst domestic Cuban elite, the US government, and US commercial interests. And, like before, this relationship was complicated by the fact that the interests were intermingled.¹¹⁵ What differed after 1933 was that Cuban domestic interests and the Cuban state would increase in power and effectiveness over many aspects of the Cuban sugar industry (such as labour regulation and production quotas).¹¹⁶ What remained consistent from before 1933 and afterwards during the carousel of presidents was that the Cuban state continued to regulate and control sugar and increasingly did so in ways that benefited Cuban *colonos*.¹¹⁷ Recall that Cuban *colonos* and small mill owners directly benefited the most in Cuba from a stabilized international sugar market. The 1937 ISA would reflect how the Cuban state would continue to define itself by its role in sugar production and buttress the interests of Cuban *colonos* and mill owners.

4.3. The 1937 Sugar Conference

Even after the 1933 revolution, the same Cuban sugar political and commercial elite that ruled during Machado's presidency dominated Cuban international sugar politics. The Cuban delegates represented the sort of 'business nationalism' that

¹¹⁰ Aguilar, *supra* note 80, at 149.

¹¹¹ Dominguez, *supra* note 10, at 76–80.

¹¹² *Ibid.*, at 54.

¹¹³ *Ibid.*, at 67–70; Pollitt, *supra* note 68, at 104.

¹¹⁴ McAvoy, *supra* note 80.

¹¹⁵ Smith, *supra* note 13, at 144–86.

¹¹⁶ Pollitt, *supra* note 68, at 101; Swerling, *supra* note 77, at 352–4.

¹¹⁷ Pollitt, *supra* note 68, McGillivray, *supra* note 57.

delicately negotiated between US capital and Cuban sugar growers.¹¹⁸ This was the same elite that, during Machado's administration, was becoming less intertwined with US capital. The delegates were not necessarily 'anti-American', nor were they willing to concede everything to US interests. The head of the delegation, José Manuel Gómez Mena, who had diverse business interests such as real estate and banking, served on the Machado-era sugar-control agency. The agency barely lasted a year and was marked by rivalry between Cuban and US interests.¹¹⁹ Aureleio Portuondo Barceló, another prominent delegate, was active in the Cuban cane-grower community. He was close to Machado and had decades of experience lobbying for Cuban interests in Washington.¹²⁰ As the Great Depression wore on and sugar prices remained low, these men, who were acutely aware of the role of sugar in Cuban life, personally felt the high stakes in achieving an international sugar agreement.

When Portuondo made Cuba's opening speech at the International Sugar Conference, he emphasized the central role of sugar in Cuban life. This meant, according to Portuondo, that the sugar market had to be economically viable in order to prevent hardship and social unrest; he stated that, by ensuring a stable world sugar market, the Cuban standard of living would improve, which would increase people's purchasing power and promote the growth of international trade.¹²¹ Portuondo not only echoed the common sentiment at the conference, that a rationalized sugar market would lead to increased trade, but he was also speaking from personal experience. In September 1933, when collapsing sugar prices triggered political upheaval and social strife that would lead to revolution, Portuondo's family had to flee when rebels ransacked their house.¹²²

Cuban sugar producers were intent on protecting their market share in the United States and reducing the influence of US capital. Under Machado, some basic legislation (with little effect) was enacted to protect smaller Cuban mills. By 1937, the *colonos* had obtained many of their demands through the Sugar Coordination Law, which increased sugar growers' financial and commercial security.¹²³ With this increased clout, the Cuban delegation, all members of the rising class of Cuban sugar growers, headed out to the International Sugar Conference.¹²⁴

5. THE 1937 INTERNATIONAL SUGAR AGREEMENT

The 1937 ISA allocated power to states according their economic role in the sugar market. Cuba would navigate this complex matrix of power to negotiate its economic sovereignty with the United States. On one hand, Cuba would further entrench its dependency on the United States for its sugar export and, on the other, it would create

¹¹⁸ For the list of delegates, see *International Sugar Conference (1937)*, 23.

¹¹⁹ McAvoy, *supra* note 80, at 183, 214–15, 225.

¹²⁰ *Ibid.*, at 176, 185, 196, 259–60.

¹²¹ *International Sugar Conference*, *supra* note 118, at 31–3.

¹²² McAvoy, *supra* note 80, at 253.

¹²³ Pollitt, *supra* note 68, at 102–3.

¹²⁴ *International Sugar Conference*, *supra* note 118, at 23.

opportunities for it to export sugar elsewhere and it would obtain more power in regulating the international sugar market.

As at the League world economic conferences, rationalization would be the primary doctrine, while freer trade remained secondary.¹²⁵ The delegates adopted the general concept of rationalization promoted by Salter when he had headed the Economic Section of the League. Accordingly, the main purpose of the 1937 ISA was to stabilize the price of sugar by regulating the production and export of sugar through quotas. Indeed, disagreements regarding the details of export-quota levels almost caused the conference to break down.¹²⁶ How sugar prices were to be controlled reflected the negotiation of power between sugar importers (consumers) and sugar exporters (producers). Fluctuating sugar prices were deleterious to all; however, rising prices provided an initial benefit to sugar producers and decreasing prices provided an initial benefit to sugar consumers. The ISA would, in effect, empower sugar importers to use domestic measures to regulate the flow of sugar whereas it empowered sugar exporters to use the treaty's international institution to regulate the export of sugar. Thus, the treaty gave Cuba more power to regulate the world sugar trade through its international quota system treaty, while reinforcing the United States' power by preserving the system of colonial preferences.

5.1. The ensuing trade institution

Even though the treaty retained Cuba's dependence on the United States, the treaty would also provide Cuba with more power to regulate the world sugar market. Indeed, the internal structure of the international sugar institution made this possible. An International Sugar Council was established to administer the agreement. The Council had the general powers that were necessary to operate the complicated system of quotas, such as those of information gathering and advising.¹²⁷ It was also empowered to decide upon matters that were substantive to the agreement, such as determining and adjusting the annual quota for the free market¹²⁸ and securing accessions from non-signatory governments.¹²⁹ Moreover, the Council had the legal function to interpret provisions¹³⁰ and resolve disputes between members.¹³¹

Each country's delegation was allotted a number of votes roughly reflecting the proportion of sugar a country imported or exported.¹³² In the allocation of votes, Cuba was granted considerable power to determine how the ISA was to operate. The Council constituted a delegation from each country.¹³³ The ISA ensured that exporters (as a bloc) would always retain voting power over importers by granting them 55 per cent of the votes.¹³⁴ So, even though Cuba had fewer votes than the

125 *Ibid.*, at 81–2.

126 *Ibid.*, at 49–57.

127 Arts. 3, 6, 7, 14, 15, 24, 33(f), 34.

128 Arts. 20, 21, 24, 32(c).

129 Art. 33(g).

130 Arts. 28, 46.

131 Art. 44.

132 Art. 37(a).

133 Art. 31.

134 Art. 37(c).

United States, it had the most influence in the exporting-country voting bloc. Cuba's power within the ISA, however, was tempered by the fact that the majority of its sugar was still exported to the United States and regulated by US duties. Nevertheless, this system still provided Cuba with the ability to affect sugar quotas (with the intent of regulating price) in the world free market, encouraging Cuban sugar producers to seek more economic sovereignty.

The Council could delegate much of its quota-determining powers to an Executive Committee.¹³⁵ The Executive Committee was to be composed of three representatives of governments of importing countries, three representatives of governments of cane-sugar-producing countries, and three representatives of governments of beet-sugar-producing countries. The composition roughly reflected the pattern of sugar politics: exporters held more decision-making power over importers, beet-sugar growers' interests were distinguished from cane-sugar growers' interests, and each country's power was determined by the amount of sugar it exported or imported.¹³⁶ Here, Cuba and Dutch-controlled Java, which produced the largest amount of (cane) sugar in the world, were granted the most formal power in regulating world sugar production.

5.2. Cuban sugar exports

Cuban sugar producers' complicated relationship with the United States was reflected by the 1937 ISA – they were not necessarily anti-United States and, in the short term, wanted to maintain their preferential access to the US market, but they also wanted to reduce their dependency on the United States. The ISA regulated the US preferential market along with US access to the free market but in a way that reflected US legislation and the status quo of the US sugar-consuming market. Thus, even though the sugar agreement granted Cuba decision-making power through the newly established sugar institution, the treaty maintained and further legitimized Cuban sugar's dependency on the US market.

Cuban sugar exported to the United States as per the Jones-Costigan Act quotas was excluded from the ISA's definition of 'exports to the free market'.¹³⁷ This meant that Cuba's sugar exported to the United States, like the US colonies, would be dictated by US policy. The complicated relationship between US Atlantic sea board refiners and Cuban raw-sugar exporters continued. Cuban sugar exported to the United States but then re-exported from the United States to another country was deemed to be an 'export to a free market'. According to the ISA, this meant that sugar exported by these US sugar refiners counted towards Cuba's allocated export quota and not the US net imports, thereby intermingling the US refining industry with Cuban sugar production in international sugar market calculations.¹³⁸

Even though the United States was Cuba's largest market for sugar, Cuban sugar producers wanted to use the ISA to increase the viability of exporting sugar to the

¹³⁵ Arts. 40–1.

¹³⁶ Art. 39.

¹³⁷ Art. 6(a).

¹³⁸ Arts. 6(a), 9(a).

free market. The agreement would provide this opportunity to Cuba through the allocation of free-market export quotas.¹³⁹ Thus, Cuba still had preferential access to the United States, but also improved their ability to access other markets.

6. CONCLUSION

The 1937 ISA was remarkable because it crystallized a particular conception of the League doctrine of rationalization. In doing so, the sugar treaty was a space of potential reform for neo-colonial Cuba within the League. To Europeans, the League's economic conferences were a failure, but, to the Cuban elites, the League was a place that allowed them to augment their national economic plans – but all remained constrained by a legally defined core–periphery relationship.

League economic doctrines would continue to influence international economic institutions even after the League's lapse. This was partially because the 1937 ISA would be the model for the next 50 years of international sugar agreements.¹⁴⁰ During the Second World War, however, there would be a shift of emphasis in League economic discourse. Late League publications, which essentially ignored rationalization and instead prioritized freer trade and the reduction of tariffs as the principal issues of interwar international commercial policy, had a profound influence on the way in which the League came to be understood in the second half of the twentieth century.¹⁴¹ Subsequently, official GATT interpretative guides,¹⁴² the WTO Dispute Settlement Panel¹⁴³ and Appellate Body,¹⁴⁴ and contemporary trade scholars¹⁴⁵ would sometimes look to the League for purposes of interpreting GATT. They, too, would reference the League's tariff policies and ignore how rationalization was a dominant economic doctrine of the time. This continued the assumption that trade law's theoretical underpinning was free trade and assumed function was tariff reduction.

This perspective limits our ability to make sense of contemporary trade law and politics. In the current WTO Doha Round, many are frustrated that countries cannot come to an agreement over questions of agriculture and development. This deadlock, however, is not simply a product of WTO negotiations. In order to understand how we reached this point, we must begin to account for how the doctrinal and institutional history of trade has, for the longest time, both defined and been defined by the relationship between the industrial core and agricultural periphery.

139 Art. 19.

140 G. B. Hagelberg and A. C. Hannah, 'The Quest for Order: A Review of International Sugar Agreements', (1994) 19 *Food Policy* 17, at 24.

141 *Commercial Policy*, *supra* note 7; League of Nations, *Towards a Better Economic World* (1939).

142 *Guide to GATT Law and Practice: Analytical Index* (1995), 62, 279, 332–3, 597, 927, 1014, available online at www.wto.org/english/res_e/booksp_e/gatt_ai_e/gatt_ai_e.htm.

143 *United States – Import Prohibition of Certain Shrimp and Shrimp Products* (1998), WTO Doc. WT/DS58/R; WT/DS58/R/Corr.1, paras. 3.187–3.189 (Panel Report); *United States – Measures Affecting the Cross-Border Supply of Gambling and Betting Services* (2004), WTO Doc. WT/DS285/R, paras. 3.278, 6.472 (Panel Report).

144 *United States – Standards for Reformulated and Conventional Gasoline* (1996), WTO Doc. WT/DS2/AB/R, para. 65 (Appellate Body Report).

145 See, e.g., S. Charnovitz, 'The World Trade Organization and Law Enforcement', (2003) 37 *Journal of World Trade* 817, at 827.