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I am submitting a dissertation written by John David Briley entitled "The Political, Historical, and Economic Aspects of the Canadian-American Free Trade Agreement." I have examined the final copy of this dissertation for form and content and recommend that it be accepted in partial fulfillment of the requirements for the Doctor of Philosophy, with a major in Political Science.

Vernon Iredell, Major Professor

We have read this dissertation and recommend its acceptance:

Accepted for the Council:

Associate Vice Chancellor and Dean of The Graduate School

THE POLITICAL, HISTORICAL, AND ECONOMIC ASPECTS OF THE CANADIAN-AMERICAN FREE TRADE AGREEMENT

A DISSERTATION PRESENTED FOR THE
DOCTOR OF PHILOSOPHY DEGREE
THE UNIVERSITY OF TENNESSEE, KNOXVILLE

JOHN DAVID BRILEY
MAY, 1994

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DEDICATION

This dissertation is dedicated to my wife,

Susan D. Widener;

and parents,

Mr. and Mrs. H. Clayton Briley.

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ABSTRACT

The Canadian-American Free Trade Agreement (CAFTA) is one of the most ambitious agreements establishing a free trade area under the General Agreement on Tariffs and Trade (GATT). It went into effect on Jauary 1, 1989, after being negotiated by the Reagan and Mulroney administrations and having passed through the legislative hurdles in each country. This dissertation is a case study dealing with the trade negotiation process. It examines the emergence of the CAFTA with primary emphasis on the historical and political aspects of the pact and with a secondary emphasis on the economic aspects. It also analyzes the objectives sought in establishing the CAFTA, the ways in which the agreement tried to provide for their attainment, the problems faced in reaching the agreement, the ways in which they were solved, and finally the problems that have arisen in implementing the pact and how they have been dealt with.

Finally it should be noted that this study of the CAFTA is concerned with the type of social and economic problems countries will face in the new world that has been emerging since the end of the Cold War. Military competition and conflicts have continued to occur, but they compete for attention with new concerns of the sort that surfaced in the debates over the agreement, especially in Canada. Particularly important were the debates over the loss of culture and political sovereignty in Canada. They may well foreshadow other debates to come.

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PART I: INTRODUCTION

The Canadian - American Free Trade Agreement (CAFTA) is one of the most ambitious treaties establishing a free trade area under the General Agreement on Tariffs and Trade (GATT). It went into effect on January 1, 1989, after being negotiated by the Reagan and Mulroney administrations and having passed through the legislative hurdles in each country. The hurdles were much higher and the political debate much louder in Canada which forced the Prime Minister to call national elections before the final approval of the agreement.

With the elimination of tariffs and most other import and export measures, the CAFTA ensures that most of the benefits of duty-free trade in goods and services will be achieved by the end of the ten-year phasing in period in 1998. While troublesome non-tariff barriers (NTBs) to the flow of goods and services will still exist, the CAFTA establishes a standstill on new discriminatory practices and promises continuing progress through negotiations.

This dissertation begins with a literature review that is organized on the basis of whether the author generally supported or opposed the agreement. It will come as no surprise to those who have studied this subject in any detail that the great majority of the writings were done by Canadian authors. Writing about the CAFTA was a "growth industry" in Canada for a number of years. (Osbaldeston Interview, 1992.) I also reviewed a series of works concerning Canadian-American relations that do not deal directly with the CAFTA,

but are a must for anyone seriously examining the topic. Part II then turns to the theoretical underpinnings of the negotiation of the CAFTA.

In Part III, I look at some background material that gives the reader a brief introduction to the history of the relationship between the two countries. I next deal with the bilateral trading relationship, presenting a general discussion of the barriers that existed prior to the negotiation of the CAFTA. The role of trends in the international economy and how they affected the thinking on both sides of the border are also dealt with in this section. The final section is concerned with an analysis of some econometric studies that favored greater liberalization of trade and predicted how it would affect the domestic restructuring of the Canadian economy.

Part IV focuses on the negotiation of the agreement. While the great majority of "official" material is still classified in both countries, a fair amount of research material is available in the form of insider accounts, newspapers, and journal articles and the like that give the reader some sense of what went on between the negotiators. The last section mentions briefly the passage of the CAFTA in both countries. A fuller account appears in later chapters.

Part V addresses the political struggle in Canada. The first section describes the role that various participants played in the CAFTA debate. The second section traces the history of the political struggle between the advocates and oppenents through 1986.

Part VI traces subsequent developments in the Canadian political battle. Finally, Part VII deals with the political struggle in the

United States. It first discusses the participants and then the history of the struggle.

In Part VIII, I will examine the content of the CAFTA itself. A chapter-by-chapter description is necessary if one is to fully understand the agreement. The CAFTA consists of eight parts, 21 chapters, 153 articles, three agreed letters, and numerous annexes.

Part IX examines the implementation of the agreement and some of the results to date. While the U.S. generally viewed it as essentially a trade agreement, the Canadians saw it as establishing a new relationship which affected all bilateral issues. The next section deals with the different internal institutional arrangments established to implement the CAFTA. Brief mention of the binational panels (a complete listing is included in the appendix) follows together with analysis of the more controversial cases they have dealt with. Finally, I look at some of the current problems and offer a tentative assessment of the CAFTA.

The last part will sum up what each country wanted and got, how the agreement was created and implications for the future.

REFERENCES

1)Osbaldeston, Gordon. 1992. Interview, December 5, 1992.

PART II: LITERATURE REVIEW AND THEORETICAL FRAMEWORK

In Part II, I will discuss some of the literature written on the CAFTA. I have divided these works into five categories. In the next section, I will be concerned with the theoretical framework used in the dissertation. It has ecletic underpinnings. They include the theories of interdependence, comparative advantage, economies of scale, competition, functionalism, and integration. While no one theory can fully explain the dynamics of the CAFTA, a discussion of the above theories as they relate to the free trade agreement is in order.

A)Literature Review

In this section, I shall deal in some detail on the wide array of works available on the CAFTA. The large majority of things done on this subject were written in Canada by Canadian authors. The National Library of Canada lists some 545 books or articles on the topic, of which 269 are located in Ottawa. I cannot deal with all of them, but will give a sampling of the works that cover the various themes that arose in the debate. An additional listing of the works surveyed but not included in the literature review will appear in the bibliography. By and large there was little in the way of political debate on the CAFTA in the United States, but a few works were done by American specialists in "think-tanks." I have divided this review into a section on the works done before the ratification of the CAFTA, and a section on those done after. Even though the agreement in principle was annnounced by the Mulroney and Reagan administrations on October 4,

1987, the final agreement was not ratified by Congress until September 1988 and the House of Commons until December 1988. I shall first discuss those works that were generally positive and supportive of the accord, and then those that were against it. Finally, I will consider a few works that do not fit into any of the above categories, but are worth mentioning. This review is by no means an exhaustive one, but it is more far-reaching and comprehensive than any that I have examined to date.

1)Those Works that Supported the CAFTA Before Its Passage

Fry and Radebaugh's CANADA-U.S. FREE TRADE AGREEMENT: AN ASSESSMENT was published in 1987 after a conference on the subject was held by Brigham Young University on April 3-5, 1986. Six papers were presented that dealt with background history, economic ramifications, protectionism, barriers to trade, political effects and competing perspectives on free trade. This collection was quite informative as were several others done within the next two years. Stairs' work on the non-economic implications of the CAFTA was one of the original pieces in this reader. He acknowledges that determining attitudes is a little trickier than looking at trade flows and measuring the impact of lower tariff barriers on selected industries. Stairs thought that at least three things would not result from the proposed CAFTA.

> There is no reason, first of all to conclude that a bilateral free trade agreement would lead - even by slow degrees - to Canada's political integration into the United States in the formal, institutional sense of the term...Secondly - and with qualifications to be discussed below - it seems unlikely that a bilateral free regime would have a significant impact on at least the fundamentals of Canada's political culture. This is partly because the two countries are driven, at the level of political philosophy, by the same basic values, and organized politically on very similar premises...Thirdly, it seems unlikely that a bilateral free trade arrangement, in itself, will have a truly significant impact on Canadian cultural activities or popular entertainments. This is not because patterns of trade are unimportant as determinants of the cultural process, but because the citadel - if ever there was one - has already been taken. (Stairs, from Fry and Radebaugh; 1987, pp. 62-63.)

The majority of Canadian political scientists were clearly against the accord for the very reasons that Stairs does not think valid.

A similar reader emerged in 1987 from a joint conference sponsored by the University of Michigan and the University of Western Ontario. (Stern, Trezise, and Whalley, 1987.) Six of the eleven articles presented economic perspectives on direct investment, econometric models, international implications, and the auto, steel, and agricultural industries. These articles are utilized quite extensively in my chapter on economics. The other works included a couple of historical perspectives, an essay on the impact on Europe, and an overview entitled "U.S.-Canadian Free Trade: Whose Time Has Come?" that sums up all the articles by one the editors, Philip H. Trezise, a senior fellow at the Brookings Institution and former trade official in the Nixon administration. All of these essays were impressive, but the historical and Canadian perspectives presented by Canadians Sperry Lea and Murray Smith were particularly useful. They gave a clear understanding of the Canadian point of view. Both of these writers are

" continentalists" who favor closer relations with the United States. Smith also wrote a historical piece for the Council of Foreign Relations project.

In 1988, William Diebold, Jr. headed the Council of Foreign Relations Project on International Trade. It deals with many of the same issues addressed in the other readers. However, it contains some material on the GATT talks, background history, and the relationship between the CAFTA and the GATT. Diebold argues that the CAFTA must not be seen as an alternative to the multilateral GATT. He feels that the CAFTA would be a good agreement for the GATT to build upon. Gerardo Bueno looks at the proposed agreement from a Mexican economist's point of view considering how the CAFTA might play to a Mexican audience. He believed (and correctly, given the outcome of the NAFTA negotiations) that Mexico would reexamine its past relationship with the U.S. and enter into a similar agreement in order to compete in the new global economy. (Bueno, in Diebold; 1988, pp. 125-126.)

Schott and Smith's THE CANADA-UNITED STATES FREE TRADE AGREEMENT: THE GLOBAL IMPACT, published by the Institute for International Economics (IIE) in 1988 seems to me the most informative of all the readers on the CAFTA. (Schott and Smith, 1988.) Most all of the chapters end with comments written by people prominent in their particular fields. The areas covered include U.S. and Canadian economic assessments, as well as sectoral analyses on the energy, investment, and services chapters of the CAFTA. The section on the dispute settlement mechanism was quite good, but the mechanism described was a little different from the one eventually provided for in the agreement.

Jeffrey Schott, economist and senior fellow at the IIE, does a wonderful job of assessing the CAFTA from an American perspective in his article "Implications for the Uruguay Round." He felt that the CAFTA should be used to reinvigorate the stalled GATT talks. The agreement's provisions with respect to investment, services, and other crucial areas should be seen as building blocks for broader multilateral pacts. Schott analyzes the relevance of the CAFTA for multilateral negotiations and concludes that the arrangements it contains cannot be "transported directly to Geneva" as they stand but provide helpful hints regarding how dispute settlement, services, and investment might be dealt with. One of the reasons why this publication was the most informative was that it came out in 1988 and the authors had extensive contacts in both the Canadian and American administrations, and the formal debates in Congress and the House of Commons.

The Cato Institute (Krauss, 1988.) and the Heritage Foundation (Hudgins, 1988.) also produced short monographs endorsing the CAFTA in 1988. The authors conclude that the agreement is farsighted, innovative, and should increase prosperity on both sides of the 49th parallel. It should give both countries increased leverage to open up nations such as Japan to their exports. The authors believe that the CAFTA offered Congress the opportunity to signal that, instead of embracing protectionism, they could enact a free and fair market-opening scheme that would enrich the citizens of Canada and the U.S.

Fry and Radebaugh's 1988 contribution was much more narrowly

targeted as it dealt exclusively with service industries. (Fry and Radebaugh, 1988.) This contribution was much like their 1987 offering. It contained papers presented at a conference at Brigham Young University on October 29, 1987 by a panel of experts on banking, investment, and other services. In the introduction, Fry remarked that trade in services represented the frontier of international commerical policy in the 1980s. He goes on to add that "dynamic economies" are increasingly dependent on the wealth created by service transactions. International trade in services, like all trade, does not take place in a vacuum without rules and regulations. What it has lacked is a general framework of rules and operating principles of general application such as those the GATT provides for trade in goods. Chapter 14 of the CAFTA provides for the first time, a set of disciplines covering a large number of service sectors. Finally, service markets usually have low barriers to entry and thus are very competitive. (Radebaugh, in Fray and Radebaugh, 1988, pp. 7-17.)

Wonnacott's THE UNITED STATES AND CANADA: THE QUEST FOR FREE TRADE: AN EXAMINATION OF SELECTED ISSUES is another informative book on the CAFTA. It was also published by the IIE in 1987. This reasonably comprehensive effort was issued about a year and a half before the CAFTA was ratified. It presented an economic analysis which non-economists can understand quite clearly. Wonnacott, a Canadian-born economist, was one of the major experts on whom both countries relied in drawing up the 1965 AutoPact which the CAFTA was built upon. At the time of his 1987 effort, he was a visiting fellow at the IIE and Professor of Economics at the University of Maryland. The chapter on

economics in this dissertation relies heavily on Wonnacott's work.

Two other 1988 works were quite prominent because their authors were very likely the most highly respected Canadian economists, John Crispo and Richard Lipsey. Crispo's FREE TRADE: THE REAL STORY was written in response to some of the wildly inaccurate stories circulating in the media during the negotiations. Crispo was aided in this effort by Robert York, David Bercuson, and Gordon Ritchie among others. Ritchie was Canada's deputy negotiator during the talks on the CAFTA. In this short book, a historical background is followed by a description of the negotiating process that led to the present agreement. The next seven chapters cover key components of the agreement such as those dealing with energy, agriculture, services, etc. An analysis of what Canada gained and lost during the negotiations is presented as well as a vigerous attack on the CAFTA's entities. (Crispo, 1988) Lipsey did much the same thing in his short monograph published by the C.D. Howe Institute which is generally considered to be as the most influential of the Canadian "thinktanks." Lipsey's earlier works on custom unions and free trade areas provided the Canadian government with ample empirical data to guide them in opening up talks on a bilateral free trading agreement. After addressing the critic's sovereignty concerns, Lipsey next approaches the loss of culture argument and concludes that the CAFTA might actually improve, rather than worsen Canada's ability to follow cultural support policies. (Lipsey, 1988, pp. 5-6.)

Peter Morici, the most prolific American writer on the CAFTA produced two books before its passage and a number of articles and

another book after its ratification. The University of Maine economist shows how both countries can improve productivity to meet global competitive pressures. Concerned exclusively with the U.S. in REASSESSING AMERICAN COMPETITIVENESS, Morici meets the issue head on and is very prescriptive. His main theme is that the failure to strengthen American competiveness will reduce income and living standards relative to other countries, primarily Germany and Japan. Throughout the postwar period, the U.S. has lagged its competitors in productivity measures and nowhere has that been more noticeable than in the manufacturing sector. Foreign competition has knocked out major chunks of American industry and has reduced its ability to service the foreign markets with exports. At the same time, Americans have relied heavily on an ever-diminishing number of products to pay for their imports. In view of these difficulties, the important question that Morici asks is not whether American industry can survive but will it finally be able to lead the world in productivity growth, or continue to decline relative to countries such as Germany and Japan. He recommends that we take a number of steps that most of us now accept as desirable. We should get our house in order by reducing our federal budget deficit, which crowds out private investors, index the capital gains rate to allow for more investment, increase the national savings rate, and upgrade human skills to cope with 21st century technology. Basic skill levels should be raised and there should be more emphasis on math, computer problem-solving, science, and communication. Finally, he thinks that the United States should strive harder to open up foreign markets in agriculture, high technology products and services,

and seek better coordination of exchange rate adjustments, and protection of intellectual property rights.

Morici's second book, MEETING THE COMPETITIVE CHALLENGE: CANADA AND THE UNITED STATES IN THE GLOBAL ECONOMY, is primarily concerned with Canada. He feels that many of the same problems that plague American competiveness also affect Canada. The solutions, however, must take into account differences between the two countries in population, resources, and political culture. Morici thinks that Canada and the U.S. should cooperate and formulate policies to meet the challenge of global competitiveness. He views the CAFTA as a means for doing so.

2)Those Works that Were Against the CAFTA Before its Passage.

One might surmise from reading Canadian newspapers in the 1985-1988 period that there would be scores of articles and books by Canadians against the proposed CAFTA. There was a great deal of noise, but it was primarily limited to the popular press. The Canadian nationalists were well organized, but not to the extent that the government and corporate community were and they lacked financial resources. All of the books and articles that I surveyed contained the same themes: loss of sovereignty, culture, and jobs and integration with the U.S. A number of works were not reviewed because they were out of print or unavailable through interlibrary loan. A few of the publications listed in the National Library of Canada were still being processed for general distribution.

Brian Copeland's OF MICE AND ELEPHANTS: THE CANADA-U.S. FREE TRADE AGREEMENT which was issued in the summer of 1988 was well thought out.

The title came from a speech made by then Prime Minister Trudeau to the National Press Club in Washington D.C. in 1969; "Living next to the United States is in some ways like sleeping with an elephant." Copeland, an economist at the University of British Columbia, after summarizing the provisions of the CAFTA (by then well known to those who chose to write on the subject, but still not agreed upon by the legislatures in each country) presented a thorough discussion of the empirical studies done by economists but disagreed with a great many of their findings. For example, concerning the gains that would be produced by trade, he argues that when trade takes place between a large country and a small country, "economies of scale" cause production costs to rise rather than fall. In this situation, the benefits of specialization flowing from comparative advantage may be more than offset by the cost increases, so that free trade can be welfare-decreasing for the small country. (Copeland, 1988, p. 5.) In his conclusions the author suggests that for the U.S. entry into such an agreement would seem to be the natural completion of the tariff-reduction process started by the GATT. However, for the Canadians, it would result in significant and mostly negative changes. It would involve further integrating the Canadian economy with that of one of the most market-oriented societies in the world. As a consequence Canada would give up a great deal of control over its domestic policies. Copeland says that the issue is not free trade versus protectionism, but how one proceeds toward freer trade. He argues that Canada's interests would be better served through the GATT, slow and cumbersome as it is. Because of the number of countries

involved, no one country can dominate the process. (Copeland, 1988, pp. 20-21.)

Marjorie Bowker's ON GUARD FOR THEE started as a personal project of the then 72-year old retired judge and attorney from Alberta. She went through the 1100-page text of the CAFTA agreement, the only copy that the University of Alberta had at the time, and set about analyzing it, pondering about it, and writing down some of her apprehensions in layman terms and left a few copies at the copying center where she had it run off. A portion of her analysis was presented in THE TORONTO STAR on July 31, 1988 by Jim Counts, a well-known Toronto columnist. His article elicited more letters than any of the hundreds of columns that he had written before. Many readers asked for copies of the entire analysis. The analysis itself is pretty straight forward, but lacks depth and is quite naive with respect to a number of crucial issues. For example she seems to think that Canada would be better served by creating arrangements with the fast-growing Pacific Rim countries than with a declining power like the United States. She fails to mention that the "third option" strategy proposed by the Trudeau administration, which provides for closer economic ties with the European Community and Japan, went nowhere after much diplomatic fanfare. Mrs. Bowker also thinks sectoral agreements with the U.S. like the AutoPact would better serve Canada than any sweeping, comprehensive agreement like the CAFTA. (Bowker, 1988, p. 98.) Again she fails to mention that this was attempted by the Trudeau administration in 1983. The MacDonald Commission's report of 1985 make it quite clear that the two sides could not agree upon which sectors should be included.

Another autumn 1988 publication was notable for its opposition to the CAFTA. It was issued by Michael Bradfield and the Canadian Centre for Policy Alternatives. Bradfield, an economist from Dalhousie University, argues that the free trade and comparative advantage analysis is badly flawed. He thinks that these theories are inadequate for dealing with the reality of Canadian-American economic relations. He feels that the CAFTA will lead to political and economic integration with the United States, producing a perversion of economics and demonstrating the intellectual bankruptcy of Canadian policymakers. Bradfield feels that before attempting to gain full access to the large American market, Canada should consider what Benjamin Franklin said over two hundred years ago: "the country which gives up sovereignty for security deserves neither." (Bradfield, 1988, p. 14.) He thinks that by agreeing to the CAFTA, Canada will get neither.

THE FREE TRADE DEAL, edited by the University of Ottawa political scientist Duncan Cameron was the most persuasive and comprehensive of all the publications I surveyed which were written against the CAFTA before its passage. This 270-page book builds upon an earlier work written by Cameron in 1986, THE FREE TRADE PAPERS. The 1988 work was divided into three sections:

a)the first describes the background of the issues, the negotiations and what economic benefits will accrue;

b)the next 100+ pages contain an analysis of the agreement chapter by chapter; and

c)the final section deals with the political ramifications of the agreement and the negative impacts that it will have on Canada.

The book was well-researched and came to conclusions which differed from those of the other major academic works (e.g. Lipsey, Crispo, Wonnacott, etc.). Cameron felt that the CAFTA was much more than an economic agreement and that the Mulroney administration was being disingenuous with the Canadian public. In the introduction he says:

> And there are many critics of the trade deal. Not only do many people not trust the government's interpretation of the agreement, they do not trust the government. For them, the process of negotiating free trade is revealing of the government's unwillingness to be frank and honest with the Canadian public. From the outset, the Conservative government was intent on maintaining secrecy with respect to what was being negotiated. Canadians were kept unaware of the progress of the talks. According to the government, this was largely to conceal Canada's hand from the Americans. And for the same reason the government was not prepared to discuss or debate openly with opponenets of the bilateral strategy, except in the most general way. (Cameron, 1988, p. xvii.)

This work contains many persuasive arguments. One might gather from the above quote, that what Cameron would prefer is a different type of governmental system, closer to that of the U.S. Under parliamentary arrangements such as those of Canada, the party in power controls both the executive and the legislative branches. The Progressive Conservatives (it seems to me) were under no obligation to bargain with the opposition in the absence of electoral fragmentation that would force a coalition government. If Canada had a separation of powers like the United States, his argument would be more convincing.

3)Generally Supportive Works Done After the Passage of the CAFTA

Two books published by the Centre for Trade Policy and Law in Ottawa were very helpful to the writer in researching and writing this dissertation. One was a 1989 publication which was based on papers presented at a conference held at the University of Ottawa on May 5

entitled LIVING WITH FREE TRADE CANADA, THE FREE TRADE AGREEMENT AND THE GATT. It was quite similar to other readers on the CAFTA except it brought things up to date after the House of Commons' passage of the CAFTA in late December 1988. Michael Hart's chapter entitled "The Future on the Table: The Continuing Agenda under the Canada-United States Free Trade Agreement" is the most comprehensive chapter. After considering the agreement itself in great detail, he attempts to anticipate the kinds of problems that the two countries will encounter in the future and deals with the unfinished business on the agenda. The second book published by the Centre for Trade Policy and Law was written by Hart in 1992. It is entitled TRADE, WHY BOTHER? and does not limit itself to the CAFTA, but deals with the role which trade plays for Canada. He describes Canadian policy and practice, the role of the GATT, how the CAFTA is in Canada's national interest, and how the NAFTA will affect the Canadian economy. Chapter 6 was quite helpful in clarifying the present status of the CAFTA and describing how some of the dispute settlement panels have ruled. He even presents a short case study of the pork dispute which helps put in better focus the operational aspects of the panels.

MAKING FREE TRADE WORK was the second book on the CAFTA produced by the Council of Foreign Relations Project on International Trade. Morici was the editor of the this 1990 publication and wrote three of its seven chapters. Michael Aho, in the introduction, argues in favor of the bilateral trading agreement between the two North American countries. However, with the exception of negotiating a similar pact with Mexico, he thinks that the U.S. should stand back and take stock

of the CAFTA before going to the bilateral route in a big way. (Aho, in Morici, 1990; pp. vii-ix.) All of the chapters were well written and informative, especially the Morici ones. Horlick and Stegar's chapter on subsidies was especially enlightening given that the negotiations almost broke down several times over them. Furthermore the subsidy question remained on the agenda for further talks to be held between the two countries after the completion of the agreement.

Horlick and Stegar recommend establishing a committee composed of officials from the two governments, that would review proposed and existing programs in the light of lists of prohibited and permissable subsidies. If some proscribed subsides were not removed countervailing duties or measures similar to them would be permitted. A proposal of this type has the virtue of permitting the U.S. to place some restrictions on Canadian subsidies, while permitting Canada to maintain some limited flexibility for continuing her regional development programs. (Horlick and Stegar, in Morici; 1990, pp. 87-95.)

4)Those Works Against the CAFTA Written After its Passage

In PARCEL OF ROGUES (1990), Maude Barlow claims that the negotiation of the CAFTA "is a story of greed, ambition, and betrayal. It is a story of the transformation of a country and its deliverance to a system foreign to its history and culture." (Barlow, 1990, p. iv.) Toward the end of this diatribe on the CAFTA, she states that the Mulroney administration backed by a powerful alliance of foreign and domestic corporations had declared war on democracy and had served notice that if you were not part of the elite in Canada, you are not welcome. (Barlow, 1990, p. 179.) She thinks that everything that is

negative in Canada that has occurred since the passage of the CAFTA is due to its ratification. In the appendix there is a listing of the job losses that Barlow claims are a direct result of the free trade agreement. She goes further in a 1991 work (co-authored with Bruce Campbell) calling Canada to arms. Canadians can only take charge of their lives and future by listening to her. What is happening is the systematic destruction of a nation and the callous dismantling of a way of life that does not serve the interests of corporate North America. She thinks that the CAFTA has weakened the foundations of the Canadian state and hastened the political breakup of the country. (Barlow and Campbell, 1991, p. 3.) The first step Canadians should take in regaining control over their destiny would be to scrap the CAFTA. Needless to say, economic nationalism is not dead in Canada as both of these works sold very well.

Hurtig's THE BETRAYAL OF CANADA presents arguments similar to those found in Barlows' books. Hurtig, the founder of the Council of Canadians (the largest interest group formed to fight the CAFTA) and an Edmonton publisher, thinks that his country is doomed if it does not tear up the CAFTA. He makes wide use of statistical data in attempting to persuade the Canadian people to wake up and take notice before they are part of the United States. The basic problem with much of his data is that it is taken out of context and that he considers problems in a vacuum. An example of this in his chapter on employment is his presentation of a chart showing the average monthly job creation from the years 1987-1990 (Hurtig, 1991, p. 17.) I have no problems with the accuracy of the data. As he says job creation fell

from +40,600 to -7400 monthly, but he ignores what was going on in the rest of the world. A massive restructuring of western economies was taking place as a result of the end of the cold war and the world was in recession. These things affected trading nations like Canada. One out of every three Canadian jobs is related to foreign trade. Hurtig has since formed the National Party in the hope of saving Canada from the dreaded Americans.

Campbell's CANADA UNDER SIEGE: THREE YEARS INTO THE FREE TRADE ERA follows the same logic as the Barlow and Hurtig publications. This 1992 work was published by the Canadian Center for Policy Alternatives, the publishing arm of the Council of Canadians. Campbell sees the CAFTA as a multi-purpose device for securing and advancing the conservative-style restructuring of Canada. He says of the CAFTA:

> a)it has acted as a wedge, providing impetus for two major policy initiatives to further entrench or 'constitutionalize' the agenda;
> b)it has acted as a ceiling, preventing intervention-minded governments from implementing their agendas and thwarting legislation which restricts corporate activity;
> c)it has served as a vice within which the Conservative government continues to unilaterally deregulate, further compressing the policy space available to future governments;
> d)it has been used by the United States in tandem with the GATT as a whipsaw to further weaken or eliminate interventionist Canadian laws and regulations; and
> e)the FTA (the CAFTA) has served the Conservative government as a key lever to facilitate and hasten the implementation of its policy agenda: corporate restructuring and downward harmonization of standards, dismantling of the Canadian social contract, and implementation of 'big-business-friendly' policies. (Campbell, 1992, p. 7.)

In his conclusions, Campbell asserts that unless the CAFTA is abrogated the culture and social fabric of Canada are threatened. Furthermore the federation of Canada is moving toward a major political fracture because of the alliance of big business with right-

wing political forces. (Campbell, 1992, pp. 24-25.) At the end of this work is a page devoted to informing the readers about the Canadian Centre for Policy Alternatives and how they can help the cause by making a contribution. This sounds like business as usual for interest group politics.

One of the better publications I surveyed during the preparation of this dissertation was written by University of Toronto political economist, Mel Watkins. This 1992 work is a series of articles that appeared in THIS MAGAZINE from 1985 to 1991. A whole section is devoted to the CAFTA and why he opposed it. Being trained in economics he addresses the theory of comparative advantage by Ricardo as it relates to the bilateral deal. He predicts two things:
a)the volume of trade between the two countries will increase; and
b)the most probable outcome is that each country is likely to end up exporting more of what it was already exporting and importing more of what it was already importing. The reason for this is that market-induced trade plays from strength. Free trade will probably intensify existing patterns of trade. Thus, generally speaking, Canada will continue to export more natural resources and to import more manufactured goods. Needless to say, Watkins is not confident that Canada will be able to invigorate its manufacturing sector. (Watkins, 1992, pp. 104-105.)

5)Other Works Concerning the CAFTA Written After its Passage

This last category is sort of a miscellaneous one, containing books that did not fit easily into any of the above categories. At least three I felt were very important to anyone dealing with the

CAFTA. The first, MULTINATIONALS AND FREE TRADE was written by Alan Rugman in 1990. While Rugman was generally favorable to the agreement, this book does not address the CAFTA directly. Instead it deals with how multinational corporations (MNCs) benefit the Canadian economy. The data sets that he used were limited to the ten-year period from 1975-1984, five years before the CAFTA was to go into effect. Rugman shows in this empirical work that Canada was a net benficiary when one compares the net deficit incurred by Canada as a result of the purchases of U.S.-owned subsidiaries in Canada with the net surplus resulting from the purchases from Canada by Canadian-owned affiliates in the U.S. He found that Canada had a net surplus from the intra-firm trade of these two types of multinationals. He also found that Canada benefitted from the jobs produced by MNCs mainly because of the manner in which Canadian owned MNCs generated jobs by their sales to the U.S. and trade liberalization will probably enhance such benefits. (Rugman, 1990, p. 73.) Many of the Canadian nationalists like Hurtig and others have argued the opposite, however not in such a rigorous manner.

Campbell and Pal's chapter on the CAFTA in their 1991 REAL WORLDS OF CANADIAN POLITICS was written as a case study for political science students. Entitled "A Big Deal? The Canada-U.S. Free Trade Agreement," it treats the subject chronologically using Canadian newspapers and books as its sources. It also includes a brief chapter-by-chapter discussion on the agreement itself and some study questions. These authors argue that the 1988 parliamentary election was the most hotly contested of this century. In their abstract, Campbell and Pal contend that the CAFTA was much more than an economic agreement. It became a

central element in several aspects of Canadian politics. It was debated by the provinces and regions, and raised questions concerning the nature of economic development in the country as well as the role of the provinces in international trade negotiations. It was a catalyst for business-government relations, since the Ottawa government needed advice on industry from experts. It dominated Canada's relations with the U.S. and became the central focus of bilateral affairs for three years. Finally it agitated virtually every constituency in the country including women, pensioners, laborers, and wine growers. Once the election was over and the Progressive Conservatives had won re-election, the agreement virtually evaporated from public view. Occasional public debates over employment gains or loses due to the CAFTA took place, but nothing that mirrored the passion of the campaign. Management of U.S. relations was now carried on quietly by the bureaucrats out of the public eye. They argue that the public all but forgot about this policy initiative that might conceivably change the economic and political destiny of Canada. (Campbell and Pal, 1991, p. 187.)

Former President of the American Political Science Association (APSA) Seymour Martin Lipset's book on the comparative political culture of the two countries is very important especially when one considers the role of the dissenters in political debate. It might appear on the surface that Canada and the United States are quite similar, but the more closely one examines the two the more differences one sees. Entitled CONTINENTAL DIVIDE: THE VALUES AND INSTITUTIONS OF THE UNITED STATES AND CANADA (1990) Lipset's book

looks at the dissimilarities between the cultures of the two countries both of which evolved out of the American Revolution. Lipset's central thesis is that Canadian society has been more law-abiding, class-conscious, elitist and collectivist than that of the U.S., and that these fundamental differences stem in large part from the defining event that gave birth to the two countries on opposite sides of the 49th parallel. The social effects of this divisions have manifested themselves in the religious traditions, literature, political institutions and socioeconomic structures that have been created in each country. This book is must background reading for any generalist looking at the CAFTA.

Doern and Tomlin's FAITH AND FEAR: THE FREE TRADE STORY won Canada's National Business Book Award in 1991. For purposes of this dissertation and source citing, I used the 1992 paperback version. The book is the most comprehensive account to date of the political debate in Canada. The authors conducted over 100 interviews with business and government contacts on both sides of the 49th parallel in this five-year effort. In addition to their interviews, they used published literature, government documents, and their own previous and concurrent research on related policy fields. I have cited this publication a number of times in different chapters of this dissertation. It is essential for anyone studying this subject.

B)Theoretical Framework

It has been argued by many that two major long-run trends are apparent in the evolution of the international community over the past

couple of centuries. First its center of gravity is shifting from international politics to international economics and second, that it is becoming more interdependent or more fully integrated. This dissertation is concerned most centrally with these two themes, economics and integration. More specifically it is concerned with one instance of economic integration, the making of the CAFTA. Such integration takes place because it is widely thought to increase the material welfare of countries involved. The process of integration is an uneven one however. While it increases the material welfare of countries as a whole some of their citizens are winners and some losers. Furthermore it may have side effects. There is disagreement about the seriousness of these. For these reasons conflict arises with respect to the desirability of integration. In other words the advance of integration gives rise to political struggles shaped by coalitions of advocates and opponents of integration and by the structure of the formal political institutions within which a large part of these conflicts take place. In the remainder of this part we will elaborate on a number of the major topics mentioned above.

1)From political to economic world

The shift in the international center of gravity from politics to economics was subject to much discussion in the 19th century. It was interrupted in the early part of the 20th century by World War I and again toward the mid-century with World War II. At the end of the cold war it reappeared though some have since grown uncertain of its durability.

2)Interdependence and Integration

When one begins to think of the CAFTA in theoretical terms, the theory of interdependence immediately comes to mind. Interdependence, in its crudest form, means mutual dependence. As it relates to international politics, interdependence refers to situations characterized by reciprocal effects among countries or among actors in different countries. These effects often result from international transactions; flows of money, goods and services, peoples, and communications across international borders. Such transactions have increased dramatically since World War II. (Keohane and Nye, 1977, pp. 8-9.)

Like all concepts or theoretical notions, interdependence is an abstraction and by definition, an incomplete description of reality. There are obviously varying degrees of interdependence. The Canadian-American relationship in many respects is a unique phenomenon. Having a population of only 10% that of the U.S., Canada relies more heavily on foreign commerce and international trade. Exports are more important to it than to all but one of the other major industrialized countries belonging to the G-7 which also includes the following: Britain, France, Italy, Japan, and the United States. Germany is the one exception. Exports generate more than a quarter of Canada's gross domestic product (GDP) and one of every three Canadian jobs depends on international trade. This high degree of dependence on the world economy makes Canada especially vulnerable to foreign economic developments over which it has little or no control. In particular, Canada's economic relations with its southern neighbor (the world's largest economy) have a profound impact on

Canada.

The two nations have been drawn together by a unique geographic location, economic interests, democratic ideals, and similar culture. From an economic point of view, Canada and the U.S. are extremely important to one another. They maintain the largest bilateral trading relationship in the world. (See Table 1 in the Appendix.) The large American market presents extensive opportunities for Canadian exporters. Three-quarters of Canadian exports already go to the U.S., while a little less than 20% of American exports go to Canada. Foreign investment is extremely high in Canada, with the U.S. easily the largest investor. Business and vacation trips across the 49th parallel are numerous and frequent as evidenced by the air travel data. Canadians made over 16.5 million visits to the U.S. in 1990 and spent $5.7 million CDN during them. The degree of interdependence between the two countries is quite obvious as evidenced by the selected data in Table 1.

The two nations have shared a great deal in the political/military realm as evidenced in NATO membership, comparable voting patterns in the U.N., and joint military manuevers, among others. But the economic aspect has grown in the post-war period and quite significantly since the adoption of the CAFTA.

3)The quest for material welfare leads to economic integration

With the fall of communism in Europe and the decision of the Western European countries to greatly increase the interdependence of their economies in 1992, Canada felt that she needed to expand her markets if she was to continue to have a high standard of living. This

could be done on a global or regional basis. With Britain deciding to join the European Economic Community in 1973, and the Trudeau administration's "third-option" strategy (more details in part III) failing to diversify Canada's trading partners, the Canadian government looked southward to accomplish their goal. They did not turn their back on the GATT, but realized that they could accomplish more in a bilateral environment with a country that already took almost 80% of their exports. With the GATT now including almost 100 countries, the Canadians felt that they could get a better deal with the U.S. and put pressure on the international community to complete negotiations at the Uruguay Round.

The GATT was formed in 1947 to expand world trade by codifying a series of rules that would guide member countries in their international economic activities. It has gone through seven successful rounds (Uruguay being the eighth) and in no small part as a result the value of world exports has increased twenty-fold and the value of world production ten-fold. This international institution was created to promote trade that avoided "beggar-thy-neighbor" policies and highly competitive regional economic blocs that existed in the early 1930s. During those years protection of domestic industry was greatly expanded by the use of the tariff. GATT tariff reduction has been carried out multilaterally in accordance with the "most-favored-nation (MFN) principle that assures each member that its goods will enter the markets of other GATT members at rates of duty no less favorable than those applied to similar products from any other GATT member. (Rosecrance, 1985,

pp.12-14.) Canada has been the beneficiary (as have other members) of the resulting expansion of world trade, but as the multilateral GATT negotiations have slowed, the tendency toward the signing of regional agreements has increasingly become the order of the day. During the 1980s the Trudeau administration became increasingly convinced that Canada needed to be included in a freer market, be it the freer world or a freer North American one.

There were two main schools of thought among the supporters of the proposed CAFTA agreement in both countries but primarily in the U.S.the two were not necessarilly mutually exclusive. These were:
a)The GATT optimists who thought that the CAFTA would push the EEC and the developing countries into a new GATT round. It would cause all countries to realize that the GATT was preferable to the law of the jungle, which would be most damaging to the weak countries. This group saw the turn to FTAs (Free Trade Associations) as a tactic designed to jumpstart the multilateral GATT; and
b)the GATT pessimists, who favored the CAFTA and saw this bilateral effort as part of a global strategy that sought to build FTAs which were open-ended and not limited to particular regions. (Bhagwati, 1993, pp. 158-159.)

While the supporters of the CAFTA realized that all countries give up a certain amount of sovereignty when entering any international institution, its opponents in Canada were very concerned that their culture and political institutions would not last and that they would be swallowed by their giant southern neighbor. The present world problem in moving toward regional integration is to balance the

economic advantages of this integration with the desire for political and cultural autonomy. The CAFTA was not an isolated phenomenon; it lies in the mainstream of the current international trend toward regional groupings. The EEC with its Maastricht treaty is the most obvious example that comes to mind. As the European countries have moved toward increased integration there have been a number of bumps in the road. Britain opted out of the currency aspect of the agreement and it took the Danes two referendums to approve the plan. There were also extremely close votes in Ireland and France where the backlash was political. There was strong opposition to "Brussels" - the centralizing of standards and regulations in the EEC - which seemed to threaten national symbols dear to the hearts of Europeans from French wine to German beer to British sausage. (Treverton, 1992, p. 353.) Members of the Commonwealth of Independent States (CIS), which arose from the ashes of the old Soviet Union, have recently agreed to a common market while retaining almost complete political autonomy. When Czechoslovakia dissolved into two independent states they formed a common market. I have not exhausted the list. To sum up, balancing the desire to enjoy national identity with the advantages of economic integration is a widespread contemporary problem.

4)Why integration produces material welfare

There are a number of reasons why integration increases productivity but in this dissertation I have concentrated on four economic concepts. These are comparative advantage, competitive advantage, economies of scale and competition. Comparative advantage is a classical concept that goes back to Adam Smith who lived in the

eighteenth century and it was elaborated upon later in the nineteenth century by David Ricardo, among others. Nobel laureate Paul Samuelson builds on the classical notion of comparative advantage, suggesting that expanding world production, stimulated by specialization and trade, makes it possible for everyone to be better off economically. Samuelson explains:

> a)the principle of comparative advantage restated: Whether or not one of two regions is absolutely more efficient in the production of every good than the other, if each specializes in the products in which it has the comparative advantage (greatest relative efficiency), trade will be mutually profitable to both regions. Real incomes of productive factors rise in both places.
> b)An ill-designed prohibitive tariff or quota, far from helping the protected factors of production, will instead reduce their real per capita income by making the whole world less productive through eliminating the efficiency inherent in the best pattern of specialization and division of labor. (Samuelson, 1980, p. 630.)

What factors give rise to the differences between countries in comparative costs and what is the basis for this comparative advantage? Neoclassical economists have traditionally defined these differences in comparative costs in terms of factor endowments or proportions. Different goods require different proportions of the various factors of production (land, labor, and capital) in their creation. Some goods require extensive utilization of land, others require a great deal of labor, and still others a large amount of capital. At the same time, God has endowed different countries with different amounts of these factors. This gives rise to differences between countries in relative factor prices. In countries well endowed with land, land is relatively cheap. Such countries will enjoy a comparative advantage in land-intensive goods. Other countries are well endowed with labor and thus possess a comparative advantage in

labor-intensive goods. Finally, in some countries, capital is relatively abundant and hence cheap. Such countries will specialize in capital-intensive goods. (Grimwade, 1990, p. 10.) This theory of trade is usually referred as the Hecksher-Ohlin theory named after the two Swedish economists - Eli Hecksher (1879-1951) and Bertil Ohlin (1899-1979) - who first expounded it. This theory is based on several highly restricted assumptions. For purposes of this work, only two are important.

> a)factors of production are immobile between countries, and
> b)these factors are used in different combinations to produce different goods. (Leamer, 1984, p. 1.)

Samuelson built upon the Hecksher-Ohlin theory stating that the opening of trade between any two countries with different factor prices and therefore different comparative costs will lead to a tendency toward the equalization of factor prices in the two countries. However, the existence of this tendency does not necessarilly mean that equalization will ever be complete. Consider two countries, one of which has a relative abundance of capital and the other a relative abundance of labor. If each specializes according to its comparative advantage, both the rate of profit and wage-rate in the two countries will move closer together. (Samuelson, 1948.) If followed to its logical conclusion, the basis for trade would disappear. Comparative costs would be the same in both countries and hence no basis for trade would exist. However, in reality, such a point is never reached. The differences in factor prices between the two countries narrows, but never disappears altogether. (Grimwade, 1989, pp. 14-15.)

Historically, a country was rich if it possessed more natural resources, more capital resources, superior technologies, more skilled producers or if its population was born rich. Some combination of these four factors usually resulted in a rich nation. At the beginning of the industrial age, natural resources and technology gave the British a competitive edge. They got rich first and this allowed them to save more of their incomes to be invested in more plant and equipment. More capital led to higher productivity and thus, to higher wages. Being rich meant that it was easier to stay rich. Much of America's economic success can be attributed to plentiful natural resources and large tracts of cheap land to farm. A small population lived in a large environment with huge natural resources. These natural resources were combined with a strong education system by the beginning of the 20th century resulting in a competitive edge. Being more skilled and working smarter allowed America to become rich. Once Americans achieved this status, the cycle repeated itself numerous times and allowed America to stay rich. (Thurow, 1992, pp. 39-40.)

The diffusion of technology and the globalization of commerce is altering the picture. Natural resources may drop out of the equation in the new world now emerging. With the exception of oil producers, there are few countries which are rich simply because of natural resource endowment. Being born rich may also become less of an advantage if capital is not reinvested at home in new technologies that guarantee future wealth. With the diffusion of technology across national borders, technology becomes a less effective weapon. Many like Lester Thurow, Michael Porter, and Robert Reich believe that the

key to gaining a competitive edge in this new international economy lies in your work force.

Thurow is among those who think that the classical theory of comparative advantage is outdated and must be recast if it is to remain pertinent. He believes that while technology creates man-made comparative advantage, seizing the opportunity it produces requires a work force which is skilled from top to bottom. The skills of the work force are going to be the most effective competitive weapon in this new world. While brainpower may create new technologies, a skilled labor pool will be the most effective means of maximizing the usefulness of these technologies. Raw materials produced from natural resources, capital, and technology will move rapidly around the world to areas in which they can be effectively utilized. These traditional sources of comparative advantage will move to where the most skilled work force is located. (Thurow, 1992, pp. 51-52.)

Porter also thinks that the traditional theory of comparative advantage needs to be modified to fit current economic reality. He favors a new theory he calls "competitive advantage" in which the skills of the work force are the most important element. In this new theory, the role of the home nation seems to be as strong as ever. While the globalization of competition might appear to make the nation-state less important, instead Porter contends it makes it more so. With fewer impediments to trade to shelter uncompetitive firms and industries, the home nation takes on the growing significance because it is the source of the skills and technology that produce competitive advantage. The prosperous home base will be the location of the most

productive jobs, the core technologies and the most advanced skills. Generally speaking the most sophisicated production will take place there while less skilled production will be done elsewhere. This new theory explains why a nation's firms gain competitive advantages of all sorts and not just the sort based on traditional factor endowments. (Porter, 1990, pp. 16-20.)

Another concept that underpins the CAFTA is the "economies of scale." According to this argument, the larger market the CAFTA would provide would allow firms (especially Canadian) to rationalize production in the most efficient manner regardless of province or state legal requirements. The economies of scale argument was used by all of the writers who supported the CAFTA. The MacDonald Commission, which provided the legal basis on which the Canadians pursued the bilateral free trade agreement, uses it throughout their 1985 analysis.

Such economies can provide a powerful incentive to trade and can be a significant source of gain. One major reason for economies of scale is the existence of large overhead and fixed costs. In order to spread out these costs in a more efficient manner, it is necessary to export to foreign markets. The gains from such trade accrue not only to the exporting firms and country, but also to importing countries. The importing countries benefit from purchasing certain products that they cannot make as cheaply as the exporter. A major feature of the international economy is the large volume of trade between the industrial countries; rich countries are the best customers of one another. The economies of scale to be reaped in the export market are

one significant reason. (Wonnacott, 1987, pp. 22-23.)

In the presence of economies of scale, firms have an incentive to grow. Oligopolistic or monopolistic markets might result because large firms have a disproportionate advantage in setting prices. Analytic complexities are introduced by economies of scale themselves, and by the resulting concentration of market power. When these complexities are taken into account, the estimation of the effects of tariff reductions becomes a very complicated endeavor. As a result, the simpler framework - with constant returns and perfect competition - has remained very popular among those who study international economics. (Wonnacott, 1987, p. 23.)

For the past three decades, Canadian economists have been concerned by the major difference between the way manufacturing operations are conducted in the two North American countries. There has been a tendency for Canada to provide for a wide range of products, each in a relatively small quantity. The general explanation for this was that diversified, small-scale production was encouraged by the trade barriers of both countries. The Canadian tariff and other trade barriers provided a protected, high-priced market, making it profitable to produce a wide variety of goods, even if they were expensive by world standards. U.S. tariffs encouraged Canadian producers to focus on the small Canadian market by limiting their access to the large American market. A further incentive to fragmented small production runs in Canada was the exposure of its public to U.S. advertising, which reinforced consumers' desire for greater choice in their purchased products. The concern with inefficiencies caused by

this small-scale production has been a driving force behind Canadian commercial policy since the 1960s. It was the factor behind the 1965 Auto Pact which permitted greater specialization by the Canadian subsidiaries. These subsidiaries now produce for the combined market by exporting much of their output, while American factories satisfy much of the Canadian market. This is reflected in the auto trade figures on Table 2 in the appendix. (Wonnacott, 1987, p. 30.)

Closely related to the economics of scale argument is the one based on "competition." The Canadians believed that the CAFTA would serve not only as a trade policy but also as an industrial policy that would help bring about a restructuring and adjustment of domestic firms making them more efficient. They would have to become more efficient to compete in the more rigorous CAFTA market. The CAFTA might also help Canada prepare for competition in the world market. While Porter did not write on the CAFTA per se, his ten-nation study on THE COMPETITIVE ADVANTAGE OF NATIONS is very useful in helping one understand why some nations produce international winners. Among his strongest empirical findings was the association between vigorous domestic rivalry and the creation and persistence of competitive advantage in an industry. This domestic rivalry toughened the competitors and allowed them to compete in foreign markets. (Porter, 1990, 117-124.) Regional competition may strengthen Canadian companies to compete and prepare them in the world market.

5)How integrate - remove barriers?

Two main barriers are tariffs and subsidies. Over a ten-year period, the CAFTA will eliminate all tariffs between the U.S. and

Canada. This will make Canadian products and services more attractive to American buyers, in relation both to U.S.- produced goods and American imports from non-Canadian sources. Since Canadian tariffs were nearly three times as high as American ones, many U.S. firms will find it easier to sell in Canada but since the potential American market for Canadian goods is much larger they will not experience the same boost that Canadian firms will.

Another means of increasing integration is to agree on a mutual definition of what constitutes a lawful subsidy. Most subsidies that countries use are lawful under the GATT except export subsidies and those that cause "material injury." Member states can decide unilaterally what is lawful and thus there is considerable disagreement concerning what constitutes a lawful subsidy. Both the United States and Canada subsidize a wide range of business activity. A subsidies code was included in the CAFTA, but a working group on the subject was provided for in Chapter 19 of the agreement. This working group met on a regular basis until 1992, when they decided to put off the drafting of a subsidies code until they received further guidance from the GATT or the NAFTA negotiations. Subsidies, especially those in agriculture and textiles (the latter regulated by a separate agreement outside the GATT) have been provided by most every nation. The interest groups representing subsidized industries are very powerful in nearly every country in the world. Some changes concerning agricultural subsidies are addressed in Chapter 17 of the CAFTA but not in a comprehensive manner. If and when a settlement of this issue takes place it will remove the thorniest barrier to further

integration between the U.S. and Canada.

In addition to tariffs and subsidies, trade is also frequently blocked by bank regulation, health and safety standards and other such non-tariff barriers. They often entail government measures that fall outside the purview of trade ministers. Furthermore they are often hard for treaties to get at given the nature of federalism in the two countries, especially Canada. Nonetheless a number of them will also be eliminated by the CAFTA over a ten-year period.

6)Reasons for opposition to integration

Most people benefit from international trade. As we have already seen however, blocking or limiting trade can bring advantages to particular groups at the expense of the broader society. These small, but usually well-organized groups (one common example is agricultural groups in both countries) often succeed in raising or maintaining barriers that lower the standard of living of the country as a whole. By excluding foreign products that compete directly with what they produce they raise costs and restrict choice. Thus the standard of living of the society is lowered by these protectionist groups. (Destler, 1992, p. 4.) Producers threatened by foreign competition stand to gain more and are better informed about their gains from protection, while consumers stand to lose less and are less informed. Thus in a democracy, the producers are likely to win the battle and achieve protection. (Frankel, 1985, pp. 14-15.)

The costs of international trade are concentrated. They bear particularly on those firms and workers whose domestic markets would be diminished by foreign competition. Trade policy usually responds to

such concerns and thus the political implications of trade agreements. If capital moves across national borders overall wages will decrease in the country where the outflow occurs, if the workers do not upgrade their education and skill levels. This can be remedied by upgrading their skills so that investment in high-tech stays at home and lesser skilled work goes offshore. The problem becomes more acute during periods of economic downturn as affected workers put pressure on the political authorities for greater protection. An exception to this phenomenon is in Canada, where in periods of economic downturns, Canadians tend to look outward because of their greater need to export given their small domestic market. The political realities are obvious and dictate adequate unemployment insurance to cope with the adjustment period.

7)Coalitions that advocate and oppose integration

There are several sorts of coalitions of interest here. First, there are interest groups not all of which are economic. Political scientists have traditionally focused on the politics and process of trade policy and the role that interest groups play in deciding which industries and groups are protected along with the role that the government and bureaucrats play in the process. David Truman defines an interest group as a "shared attitude group that makes certain claims through or upon other groups in a society...If and when it makes its claims through or upon any of the institutions of government, it becomes a political interest group." (Truman, 1951, p. 37.) Pross builds upon this definition by adding that: "interest groups are organizations whose members act together to influence

public policy in order to promote their common interest." (Pross, 1975, p. 2.)

Interest groups have traditionally been credited with performing a number of important functions in the American political system. Most often cited is their role in linking the governed with the government: they act as a major vehicle of political participation transmitting the views of citizens to public officials, especially between elections. They also serve decision-makers as major sources of both technical and political information. Many help to facilitate the process of bargaining and compromise essential to policy-making in a pluralistic system like that of the U.S. Interest groups also educate their members and the general public on issues concerning them and provide opportunities for citizens to learn about the political process. Finally, they act as agents of political recruitment of public officials. (Thomas, 1993, pp. 28-29.)

There is another sort of opposition separate from economic opposition that lies at the heart of the political debate in Canada: that is, cultural opposition. To a disinterested observer, the cultures of Canada and the U.S. seem quite similar, but the closer one gets to them the more different they seem at least to a Canadian nationalist committed to the defeat of the CAFTA. Canadian nationalists expressed fear that greater economic integration in the form of the CAFTA would lead to the extinction of English-speaking Canada's distinct culture and ultimately of Canada's national independence. They argued that in order to compete in a North American common market, Canada and its provinces would have to give up many of

the social-welfare and public-benefit politicies that have distinguished Canada from the U.S. (Lipset, 1991, p. 432.)

Those opposed to the CAFTA could (and often did) point to the work that the "functionalists" have done on integration theory. The functionalists maintain that once countries become intertwined economically, it becomes much easier for them to become integrated in other functional areas. This effect is called "spillover." The most obvious example cited by the functionalists is the development of the European Coal and Steel Community (ECSC). It evolved into the European Economic Community and subsequently the EC which has now been further integrated by the Maastricht treaty. That agreement provides for full monetary and significant political integration by the end of the century and renames the group the European Union (EU). (Doughtery and Pflatzgraff, 1990, pp. 432-442.)

There was no corresponding anxiety on the part of the Americans during the CAFTA debate. For the the larger and more dominant power, there was little perceived threat of being overwhelmed by Canadian culture or economic interests. Canada, being the smaller power, had much more to lose in terms of culture, but more to gain economically from the larger American market. A number of standard-of-living-type questions will arise from the CAFTA, but since relative skill levels, education, and environmental standards are comparable they should not be insurmountable. Perhaps the supranational institutions created by the CAFTA in the dispute settlement area will minimize the losses Canada might feel to its sovereignty due to the pact. Smaller countries tend to benefit more

under such arrangements as they tend to produce a more level playing field. The two sides are made more equal than would have been without the CAFTA. Thus it is not surprising that it was Canada that pressed for the establishment of the dispute-settlement mechanisms. There are trade-offs in this agreement from which both countries should benefit.

The struggle over the CAFTA was influenced not only by interest groups but also by parties and finally by geographically based coalitions. The first listed tend to be the most monolithic in their views on a particular issue and the latter least monolithic.

8)Formal political institutions

The political struggles over the CAFTA were shaped not only by the nature of coalitions of advocates and opponents of integration but also by the structure of the formal political institutions within which the struggles took place. Two sorts of division of power within the political institutions are of importance to us. There is division between regional governments and the central government and also between the branches of the central government. In the Canadian case the division between the regional and central governments is of major importance. Making of trade policy involved negotiation between the provinces and Ottawa. In the American case the states played almost no role but the division between branches of the central government was of major importance. The executive branch negotiates trade agreements while the legislative branch has long had considerable influence over the negotiations. Its influence moderated through most of the postwar period, only to reassert itself since the early 1970s.

Finally it should be mentioned that the debate was shaped by the

fact that it was clear that the CAFTA would have a much greater impact on Canada than on the United States. As a result the political discussion in Canada began at a much earlier point in the process and was much more extensive. It began as a general public debate prior to parliamentary consideration of the agreement. In the United States there was little discussion prior to consideration by congressional committees. In the United States at the legislative stage the administration defended the agreement in subcommittees and committees of Congress. In Canada, with its parliamentary system, the administration defended the agreement on the floor of Commons. When it came to the vote in the Canadian case the split was largely along party lines because of the strength of party discipline. There was also the question of the "Senate" in the Canadian system. While senators play a major role in the development of legislation, their role is much more limited in the Canadian legislative arrangement. Senators are appointed by the prime minister and the Senate plays a role much like that of the House of Lords in the British parliamentary system. Only one time since 1927 (in 1961 on a minor issue) has the Senate overruled the House of Commons. In the United States both parties were largely in agreement on the wisdom of the pact but lack of party discipline allowed some splintering due to differences in economic interest between groups like business and labor and one region and another.

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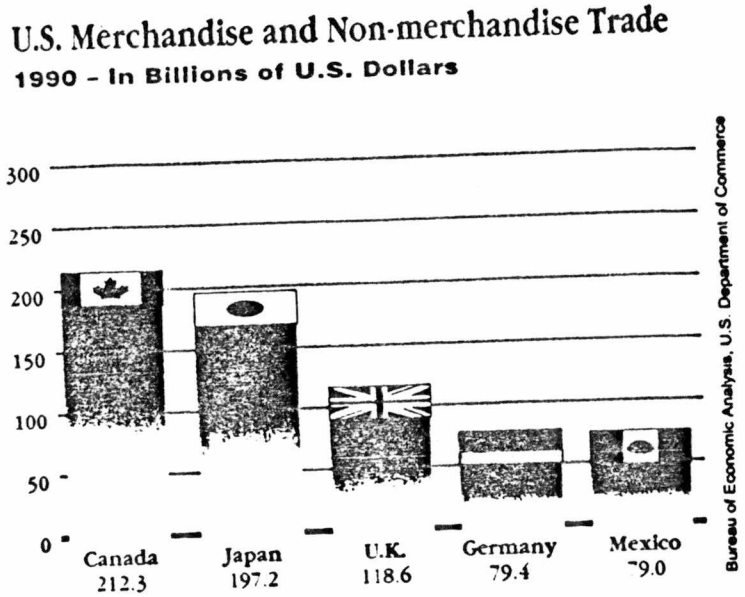
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APPENDIX



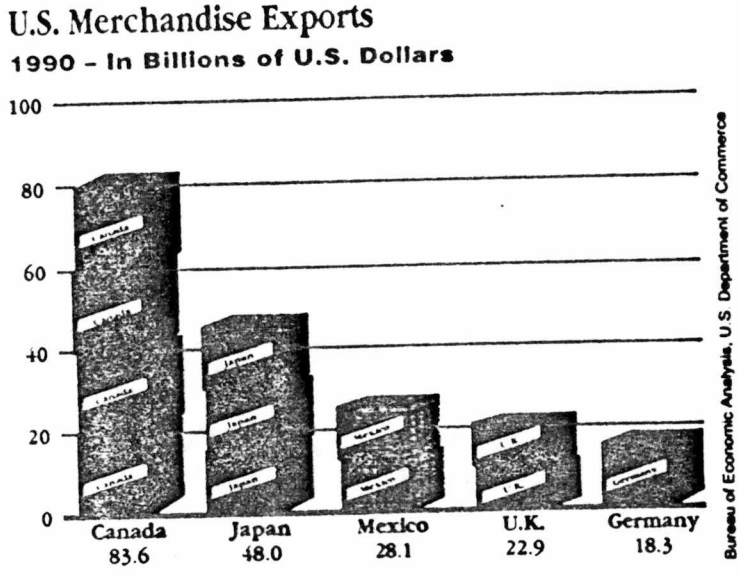


Figure 1
Selected Economic Data Between the Canada and the U.S.

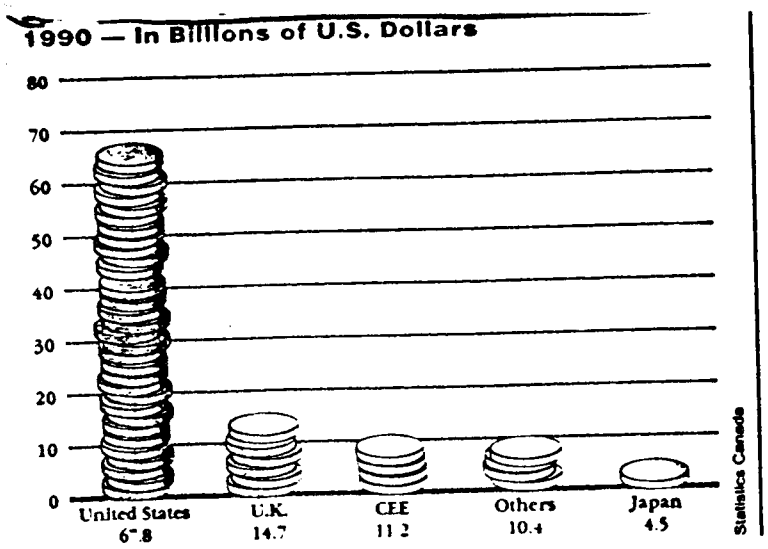


Figure 2
Stock of Foreign Direct Investment in Canada

Cities	1988 (Thousands of Passengers)
1)Montreal - Toronto	1360
2)Toronto - Vancouver	796
3)Ottawa - Toronto	761
4)Toronto - New York	755
5)Calgary - Toronto	533
6)Calgary - Vancouver	434
7)Toronto - Winnipeg	405
8)Montreal - New York	384
9)Edmonton - Toronto	358
10)Edmonton - Vancouver	346
11)Toronto - Chicago	338
12)Halifax - Toronto	334
13)Calgary - Edmonton	303
14)Toronto - Boston	246
15)Toronto- Los Angeles	213

Source: Canadian Travel Survey

Figure 3
Scheduled Flights from Canada: Top City Pairs

Table 1
Canadian-U.S. Automotive Trade (CDN $Billions)

Year	Exports to U.S.	Imports from U.S.	Canada's Trade Balance
1978	$11.9	$12.5	-$.589
1979	$11.4	$14.5	-$3.08
1980	$10.3	$12.3	-$2.04
1981	$12.7	$14.4	-$1.7
1982	$16.4	$13.5	+$2.9
1983	$20.8	$17.6	+$3.2
1984	$29.8	$23.9	+$5.9
1985	$33.8	$28.3	+$5.4
1986	$34.4	$29.1	+$5.2
1987	$32.5	$28.6	+$3.9
1988	$32.0	$29.5	+$2.5
1989	$31.3	$28.3	+$3.0
1990	$31.5	$26.5	+$5.0

Source: Statistics Canada

PART III: THE HISTORY OF U.S.-CANADIAN TRADE AND ECONOMIC PROJECTIONS

Before turning to the more recent history of trade relations between the United States and Canada, it is necessary to give some background information on their trading past. The first section below does this. It starts by examining the bilateral trading relationship and the forces that led the two countries to seek a free trade agreement. I will then discuss some of the barriers to trade that existed prior to the negotiation of the CAFTA along with the general trends that existed in the international economy and how they affected Canadian and American objectives. The next section addresses how trade policy is made in both countries. The final section describes some of the econometric models and their projections that negotiators looked at in structuring the CAFTA.

A)The History of U.S.-Canadian Trade

Early commercial policy was set for the Canadian colonies by Britain and provided substantial tariff protection. However, in 1846, Britain unilaterally adopted free trade and did away with the "corn laws." The Canadians were alarmed by the loss of Imperial Preferences and entered into negotiations with the United States, which ended in 1854 with the Reciprocity Treaty that allowed free trade in a number of manufactured goods. The United States soon passed Britian as Canada's number one trading partner.

1)U.S. Civil War prompts changes in Canada

This new relationship soon soured, however, for during the Civil War the United States resented British support for the "rebels" and took out its resentments on Canada by unilaterally abrogating the Reciprocity Treaty in 1866. The Canadian provinces looked to one another after Britain and the U.S. turned away from them. In 1867, they joined hands in confederation, forming a Canadian nation stretching "a mari usque ad mare" (the Canadian motto meaning "from sea to sea"). (Wonnacott, 1987, p.12)

The United States attempted in 1869, 1871, and 1874 to negotiate a new treaty with Canada covering a wide range of manufactured goods. The U.S. Senate failed to ratify the draft treaty of 1874. A conservative victory in the 1878 election resulted in a new Canadian government that instituted a new trade policy that would last for over one hundred years. Britain again passed the U.S. as Canada's number one trading partner during this period and would remain so until World War II. In the words of Simon Reisman (chief Canadian negotiator in the CAFTA), the 1878 election brought about a "a drastic change in the commercial policy under which the British North American colonies had developed and (the new policy) became a major focus affecting Canadian economic development and industrial structure...The main lines of the protective system then introduced have never since been basically altered." (Lipsey, 1987, pp. 73-74.)

2)First try at free trade fails

In 1911, the two countries succeeded in negotiating an agreement for a substantial lowering of tariffs on trade between themselves, this time at the Americans' initiative. However, before the agreement

could be ratified by the Canadian legislature, a Canadian election intervened. The trade agreement with the Americans was the major issue. The Conservative opposition used the slogan "No Truck or Trade with the Yankees." The defeat of the Liberals was taken as an expression of public opinion against freer trade with the U.S. and Canada did not ratify the agreement. (Lipsey, 1987, p. 75.)

In 1931 Britian abandoned her long-time preference for free trade and adopted the system of Imperial Preferences that kept tariffs low within the commonwealth, but raised them elsewhere. This reinforced the Canadian National Policy which provided for high tariff walls to help budding manufacturers against the U.S.. The result was the establishment of American branch plants inside Canada to avoid the tariff not only on sales to Canada, but also to the entire British Empire, which included nearly one-quarter of the world's population at that time. (Lipsey, 1987, p. 75.)

3)Bilateralism begins with Canada

With the 1932 election of Franklin Roosevelt and the coming of the New Deal, U.S. trade policy would undergo a major shift. The resulting policy has lasted until the present. The Democratic administration would make tariff reduction one of its major themes in response to the aftermath of "Smoot-Hawley" and the breakdown of the world trading system. The key figure in this policy was Cordell Hull, the new Secretary of State. The three themes of reciprocity, bilateralism and most-favored nation treatment (MFN) were vital components of the program which subsequently turned American trade policy around and help open foreign markets. The method used would be one of bilateral

agreements; such an agreement was made with Canada in 1934. Both countries suffered severely during the Great Depression of the 1930s but enjoyed prosperity during and immediately after World War II. Until the war, Britain had been Canada's most important trading partner. In 1938, for example, 40% of Canada's exports went to the United Kingdom, while only 23% went to the U.S. After World War II, Canadians saw increasing links with the U.S. as a symbol of their growing independence from their British patrons. More American investment meant less British investment and a Canadian dollar tied to the American dollar was a symbol of independence that took the Canadian currency outside of the Sterling Bloc. (Diebold, 1988, pp. 1-10.)

Another important move in trade policy came in 1948 when a Canadian-American free trade agreement was discussed at length. It went further than any initiative since the Reciprocity Treaty and was discussed against the backdrop of good feelings that had arisen since the end of World War II. The proposed agreement called for the immediate elimination of all tariffs and the imposition of transitional quotas over a five year period. Two agricultural items from both countries were excluded and a provision was made for consultation to work out joint marketing agreements for a wide array of agricultural products. Prime Minister MacKenzie King was initially favorable to the agreement, but felt uneasy about the magnitude of the decision. His diary revealed his state of mind:

> Its possibilities are so far-reaching for good on one hand, but possible disaster if project were defeated that I find it necessary to reflect a good deal before attempting final decision. (Wonnacott, 1987, p. 16.)

Caution ultimately got the best of King and he decided not to go ahead with the agreement.

In the recent period Canada had three options. The first amounted to maintaining the status quo, while the second involved increasing dependence on the United States and the third involved decreasing dependence on the U.S. In the mid-1950s, the Canadian economy continued to be heavily dependent on the U.S. with about 60% of its exports going to the U.S., and almost 75% of its imports coming from the U.S. According to Paul Wonnacott, this heavy dependence on its southern neighbor tugged Canadian policy in two conflicting directions. One response (the second option) was to attempt to escape, at least partially, from the American sphere of influence. In the late 1950s, Conservative Prime Minister John Diefenbaker pledged to shift 15% of Canada's trade from the U.S. to Britian. This turned out to be utterly unrealistic. By the 1970s, Liberal Prime Minister Pierre Trudeau was pursuing the "Third Option," of switching some of Canada's trade away from the U.S. to the EC, Japan, and some developing countries. Again, talking about a policy was much easier than implementing it. However British entry into the EC in 1973 had a disruptive effect on Canadian trade patterns. Their preferential position in the British market was erased by this action which gave Western European countries more desirable treatment of exports and imports. Efforts to promote closer ties with the EC and others were a failure and the share of Canadian exports going to Western Europe declined from 19% in 1970 to 15% by 1980 and 7% by 1985. (Wonnacott,

1987, p. 16.)

The "Second Option" - a closer relationship to the southern giant and a securer access to its lucrative market seemed increasingly attractive. In 1958, the two countries negotiated the Defense-Production Sharing Agreement, increasing the ability of Canadian firms to compete for U.S. defense contracts. In 1965, when faced with an open conflict over the nature of provincial subsidies, the U.S. entered into the Auto Pact which provided for duty-free trade in new cars and original equipment parts. It led to a rapid increase in bilateral trade between the two countries. This sectoral agreement assured a high level of domestic production for Canada. It induced U.S. manufacturers to maintain sufficient investment in their Canadian facilities to achieve a permanent "fair share" of total North American production there. (Lea, 1987, pp. 21-22.)

4)International economic changes impact on both countries

Sperry Lea thought what contributed most to the economic and political developments that changed Canada's mind on bilateral free trade was the relative decline of American economic hegemony in the post-war period. Most analysts see the 1973 Arab oil embargo directed toward the U.S. as symbolizing this phenomenon. Lea continues to claim:

> In retrospect, this period was distinguished by reasonable stable world economic growth under orderly regimes for trade and finance established just after World War II. The more volatile new era came to be identified with the abandonment of traditional ground rules and practices, sometimes by sudden destruction. It was heralded in 1971 by the U.S. decision to devalue the dollar and the subsequent move to floating exchange rates. It began unequivocally with the first oil shock of late 1973. By then trading countries were feeling the growing effects of Kennedy round tariff cuts, phased in since 1967. Meanwhile, technological advances were changing the nature of many products, their manufacturing processes, and who could make them more competitively. The latter point was illustrated by the increasingly competitive prowess of Japan and the newly industrializing countries, who were combining state-of-the-art technology, low wages, and emphasis on quality to challenge seriously the traditional industrial countries of Europe and North America. (Lea, 1987, p. 23.)

Further transformation resulted from the conclusion of the Tokyo round of the GATT (1973-79), which allowed for further trade liberalization, and the second oil price shock which coincided with the fall of the Shah in Iran and greatly contributed to the severe world recession of the early 1980s. Meanwhile, trade flows were being distorted and reduced by exchange rate misalignments and by the need of some severely indebted nations to constrain imports. One consequence of this series of events was declining respect for the international trading system under GATT rules. Not only were the regulations that dealt with trade in goods beginning to show their age, but there were virtually no rules to deal with trade in services and investment and with intellectual property. In short, the GATT rules dealing with the problems of the past, that is trade in manufactured products were proving inadequate. The most glaring evidence of this was seen in the protectionism and trade management being practiced by virtually all countries. The American response to what it considered foreign dumping and subsidization of exported

products was especially troubling to Canadians. This development broadened Canada's economic goal from merely gaining wider access to the U.S. market to gaining more assured access to it. (Doern, 1982, pp. 1-36.)

These changes in the international economic environment had political ramifications dramatically illustrated by the fact that Canada in less than a decade and without a change in administrations abandoned her traditional policy and embraced a bilateral free trade agreement with the United States. The power of events to move institutions is clearly exemplified in this basic redefinition of Canada's relationship to the U.S. The change took place in the face of the tremendous asymmetry in power between the two countries, which fuelled Canada's fears of being swallowed by its southern neighbor.It took place amid unprecedented conditions of crisis and conflict that marked the period.

5)NEP backfires on Canadian nationalists

The formal negotiations to conclude the CAFTA that began in May of 1986 had their origins in the acute bilateral conflict that erupted in 1981 over Canadian energy and investment policies. The majority Liberal government elected in 1980 had adopted an ambitious national agenda that was designed to enhance the resources and visibility of the federal government. The Liberals' aim was to redress what was viewed as a serious imbalance between the center (federal government) and the periphery (provincial governments). Doern saw this as central to the Liberal strategy which involved initatives like:

> ... patriation of the Constitution, a resources-first approach to economic development, renegotiation of social programs and equalization payments to the provinces, and the creation of a Western Development Fund. (Doern and Tomlin, 1992, pp. 16-17.)

The National Energy Program (NEP) was also a key element in this overall strategy, but one which had negative consequences for foreign investors in the Canadian oil and gas industry. When the government also announced its intention to extend the mandate of the Foreign Investment Review Agency (FIRA) which was involved in the regulation of direct foreign investment, the screams of outrage from the American business community and the Reagan administration became extemely loud. U.S. plans for retaliatory measures targeted the Canadian achilles' heel of trade dependence on the U.S. The Liberal government quickly realized that it was in a vulnerable position and moved expediently to reassure the Americans that it had no plans to extend the Canadization provisions of the NEP to other sectors of the economy. (Doern and Tomlin, 1992, pp. 17-18.)

This sharp conflict and the subsequent fears it aroused in the Canadian government, represented a turning point for Canada in its relations vis-a-vis the U.S. The Reagan administration had openly threatened the security of Canadian access to a market on which Canada was overwhelmingly dependent. The implications for employment and investment were profound. Both the business community and the government were forced to re-assess the value of a secure and enhanced access to the U.S. market, especially in the context of a severe economic recession which resulted in double-digit unemployment. For the United States, the memory of the NEP and FIRA would linger, and the free trade initiative would be seized as an opportunity to ensure that American economic interests would never again be threatened by such policies. (Doern and Tomlin, 1992, pp. 18-19.)

6)The first official Canadian moves toward free trade

The 1981 battle was important because of the powerful influence it would subsequently exert on the way Canadians viewed their problems with the United States. A review of bilateral relations was started in the Department of External Affairs (DEA) by a task force headed by Michael Hart. Hart, a departmental trade policy specialist and economist by profession, organized a series of consultations with representatives of the Canadian business community and the provincial governments. In these meetings, the task force was repeatedly told that the major goal of any trade policy should be to "get the Canada-US relationship right." The U.S. market was fundamentally important to Canadian economic well-being, and the preservation of that market required stability in the relationship between the two countries. In particular, the government had to find a means to protect Canadian exporters from the application of the contingency protection provisions of the U.S. trade law that threatened their economic security. Hart noted several reasons why Canada sought a free trade agreement.

> Canada is a trading nation. More than half of the goods produced are exported; more than half of the goods consumed are imported. In order to survive, Canada needs open and secure access to world markets. For years, Canadians have exported a relatively narrow range of commodities, first to Britain and then to the United States...Almost two thirds of Canadian exports continue to be based on resources and many are sold at low stages of processing. The export of resources thus offers an increasingly insecure basis to induce Canadian economic development ...Canadian manufacturers have tended to concentrate on the domestic market, competing with imports behind the shelter of the tariff and other protective devices. But an increasing number of manufacturers want to compete on world markets and see their future in the development of a more competitive, outward-oriented economy relying on more than resource industries...It requires open and secure access to a large market - preferably the world market. (Dearden, Hart, and Stegar; 1989, pp. 68-69.)

In 1983, the Trudeau government decided after the failure of the GATT ministerial meeting of the previous year to float the idea of a series of sectoral free-trade agreements with the U.S. Both governments attacked the problem with a certain degree of enthusiasm, but by the end of the year concluded that while the ojective was noble, the means for achieving it were inadequate. Neither side could agree on what sectors would and would not be included. It was too difficult to find a match of sectors where each country could find advantages vis-a-vis the other. Only in a broadly-based and comprehensive negotiation is it possible to make cross-sectoral trade-offs. The initiative was dead by the summer of 1984, which also brought the resignation of Prime Minister Trudeau. (Dearden, Hart, and Stegar; 1989, p. 72.)

7)Mulroney's election victory draws Canada closer to U.S.

The election of Brian Mulroney and the Progressive Conservatives (earlier called just the "Conservatives") in September 1984 brought to power a government that the Reagan administration was more ideologically aligned with and found it easier to work with. During the campaign Mulroney was highly critical of how the Liberals had handled Canadian-American relations. He pledged not only to introduce a "new era of civility" in North American affairs, but also to provide the U.S. with greater support in its global dealings. Early in his administration, Mulroney showed an eagerness to live up to his campaign pledges. The offending sections of the NEP were eliminated and the FIRA changed its name to "Investment Canada" while making broad changes in its foreign investment policy. In a New York speech

to the U.S. corporate community in December 1984, Mulroney stated that Canada was "open for business again." (Bromke and Nossal, 1987, p. 152.)

The bilateral negotiation option received its most substantial boost in November 1984 from Donald MacDonald, a former Liberal cabinet minister and chairman of the Royal Commission on the Economic Union and Development Prospects for Canada. Initially appointed by Trudeau in 1982, the MacDonald Commission was looking at the prospects for free trade between the two countries in the context of the entire Canadian economy. Although the commission had neither completed nor framed its conclusions, MacDonald nevertheless announced that he favored free trade between the two countries as the principal long-term solution to Canada's economic problems. His call for a "leap of faith" was a big news item in Canada. MacDonald's support at this critical juncture provided important momentum to the free trade option. This endorsement was followed by a series of government reports that moved the Mulroney cabinet ever closer to a final commitment to negotiation. (Doern and Tomlin, 1992, p. 24.)

A Canadian government discussion paper, while acknowledging the importance of multilateral trade liberalization, confirmed the need to seek an enhanced and secure access to the American market. To this end, this Trade Ministry paper suggested that some form of bilateral trade arrangement should be considered, and set out the various scenarios available to Canada. These were the status quo, sectoral arrangements (already turned down by the U.S.), a comprehensive trade agreement to remove tariff and nontariff barriers on nearly all

bilateral trade, and a bilateral framework to discuss means of improving and enhancing trade relations. Although this document was careful to avoid identifying a preferred option, it rejected the status quo as inadequate, sectoral arrangements as unattainable, and the bilateral framework as unnecessary. It was quite obvious what the available option would be. (Doern and Tomlin, 1992, p. 25)

The culmination of this initial spurt of activity came at the summit meeting between Mulroney and Reagan in Quebec City in March 1985. This meeting seemed to confirm all the predictions of a closer relationship between the two countries after several years of estrangement. "We are more than neighbors or friends or allies," declared President Reagan, setting the tone for the summit. "We are kin who together have built the most productive relationship between any two countries in the world today....For the United States there is no more important relationship." The atomsphere in Quebec City was warm and friendly. The meeting had been dubbed the "Shamrock Summit," not only because it occured on St. Patrick's Day, but also because both leaders had Irish ancestry. (Bromke and Nossal, 1987, p. 153.)

8)MacDonald Commission gives push to free trade

On September 5, 1985, the report of the MacDonald Commission was made public. It made a number of recommendations. The most expensive and thoroughly researched Royal Commission report ever would suggest that Canada pursue a free trade agreement with the U.S. Mulroney saw immediately the opportunity for a bold policy initiative with built-in bipartisan support. He relished the chance of using a former Liberal cabinet minister to give bipartsian legitmacy to this report.

On September 9,the Mulroney government told the House of Commons that it had decided to pursue "freer" trade with the U.S. On September 26, the Prime Minister told the Commons that he had telephoned President Reagan to ask him to explore with Congress Canada's interest in pursuing negotiations to reduce tariffs and nontariff barriers between the two countries. This telephone call and the formal written proposal that followed on October 1 finally brought to an end four years of policy transformation in Canada. With little fanfare, the government had decided to pursue a comprehensive free trade agreement with the United States. (Doern and Tomlin, 1992, p. 30.) More detailed accounts of the political debates in both countries as a result of these negotiations will be presented in upcoming chapters, but first a discussion of trade relations between the two countries and some general economic analysis are in order.

B)Why a CAFTA Now?

1)Canada's reasons for wanting an agreement

In the previous section, I chronicled the events that led the two countries to negotiate a free trade agreement. The obvious question one must ask is: Why was the agreement drawn up when it was? The question will be addressed primarily from a Canadian point of view because it was largely a change in the Canadian position that made it possible. The reasons for action can be summarized in a series of related propositions from the MacDonald Commission:

a)Canadians aspire to a prosperous society with full employment benefiting citizens from all regions of the country;

b)Canada will move from a primary-product based export strategy to one that relies on a modernized industrial base;

c)Given current international economic conditions and how Canada fits into them, the industrial base of its economy will have to be upgraded if it is to be a world-class participant in this new international economy;

d)Achieving this goal will require a significant investment in Canada of new capital, accompanied by top-level entrepreneurship and management;

e)The Canadian economy must have a strong manufacturing base and better access to a far larger market than its own, namely the U.S. market; and

f)To gain free access on a secure basis will require a comprehensive bilateral treaty. (Lea, 1987, pp. 27-28.)

Because of the huge disparity in size between the two economies, Canada was more concerned with maintaining national sovereignty and independence; the United States did not need to be concerned with being overwhelmed by its northern neighbor. Any initiative from the American side could be perceived as a power grab that threatened the very existence of Canada. If these negotiations were to be successful, it would be essential that each partner take into account the other's perception of national interest. This should have been well understood by the U.S. because of the failures of the 1911 and 1947-48 initiatives. The first step had to be taken by the Canadian government. Thus Prime Minister Mulroney's announcement to Parliament of September 26, 1985.

In addition to the reasons cited by the MacDonald Commission, Wonnacott claims that there were at least three interrelated factors that led the Canadian government to put forth the initiative. They were:

> 1)a growing realization among the business community, academics and politicians of how difficult it is for Canadian manufacturing to achieve large-scale, efficient production without access to a large market; economies of scale mean that gains from free trade can be large;
> 2)the changing character of the Canadian economy, and of its international trading relationships; and
> 3)fear that protectionism in the United States threatens existing Canadian trade. (Wonnacott, 1987, pp. 57-58.)

The initiative was inspired both by a hope for a better trading relationship, and a fear that things could get worse in the absence of such an agreement that guaranteed access to a large market. There has almost never been an ideal time for both countries to engage in trade negotiations as the chief negotiator for the Canadian government, Simon Reisman asserts:

> Canadian interest in reciprocity traditionally has peaked during periods of economic difficulty or when Canada has been frustrated by difficulties with other trading partners, particularly the United Kingdom and Western Europe. The United States, by contrast, traditionally has turned inward and reverted to more protectionist policies in the face of hard times. Thus there has been a recurrent mismatch of goals and interests in matters of trade policy. (Reisman, 1984, p. 43.)

Historically, Canada's competitive strengths have resulted from its natural resource endowments - grain, fish and food products, forest products, energy, and basic metals and minerals. However, prospects for rapid export growth in these areas were limited because of the emergence of lower cost producers and a worldwide glut of oil that helped depress prices in these sectors. Three major developments helped increase the dependence of Canada on the U.S. market as a source of Canadian propserity. Wonnacott described these developments as they had evolved in the previous three decades.

a)exports had risen as a percentage of the GNP;

b)exports had increasingly been oriented toward the U.S.; and

c)manufactured products were making up an increasing share of the exports (particularly in the auto sector, as a result of the 1965 AutoPact), with agricultural and mining products declining relatively. (Wonnacott, 1987, p. 59)

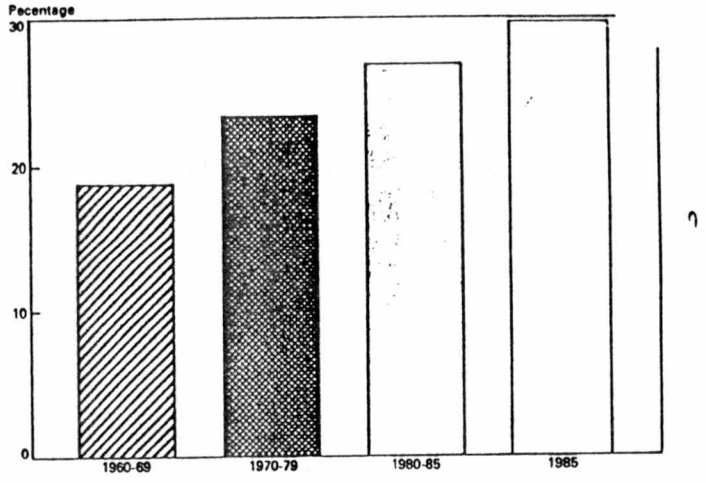


Figure 1

Canadian Exports as Percentage of GNP

Source: Economic Council of Canada (1986, p. 84.)

Figure 1 shows the substantial increase in merchandise exports as a percentage of Canadian GNP. At the same time, the share of Canadian exports going to the U.S. was increasing some 15% from 59.3% in 1960 to over 75% in 1986 (Figure 2). The share imported by Japan and the newly industrializing countries of Asia also grew in this period but did not make up for the decline in trade with the United Kingdom and Western Europe. These changes were the result of strong international forces that including the rise of Japan and the Asian "tigers" (South Korea, Hong Kong, Singapore, and Taiwan), and the inward looking formation of the European Community that brought about more trade among European countries at the expense of their other trading partners. As mentioned in the last section, the "third-option" policy was unsuccessful in increasing the Western European share of exports at the expense of the United States. This unsuccessful policy caused the Trudeau government to reevaluate its trading situation vis-a-vis the world. If Canada was to remain a rich country, it would have to increase its exports. The natural market for increased exports would be the United States.

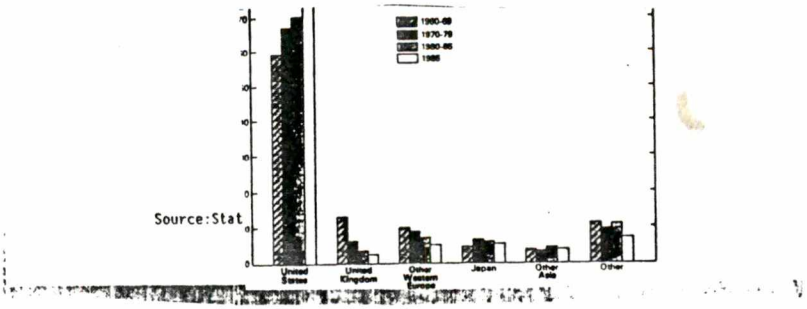


Figure 2

Destination of Canadian Merchandise Exports

Source:Statistics Canada

The third major development that Wonnacott cited was the increasing share of manufactured goods in Canadian merchandise exports - from 68.8% in the 1960s to 86% in the early 1980s (Figure 3). One of the traditional economic fears of Canadians - that they were in danger of becoming mere "hewers of wood and drawers of water" for their large southern neighbor - should be allowed to fade into history. The transportation (vehicles and parts-related) sector accounted for nearly 40 % of the total Canadian merchandise exports by 1985. This considerable increase was in large part a result of the 1965 Auto Pact which provided for duty-free trade between the two countries as the "Big Three" automobile manufacturers rationalized production in vehicles and orginal equipment parts. The general machinery and equipment category also accounted for an increasing share of Canadian exports, while shares declined for various primary products, iron, steel, and other nonferrous metals, as well as food and beverage products. (Wonnacott, 1987, pp. 61-62.) With over three-quarters of Canada's exports going to the U.S., the Canadian government felt that it needed a securer access to this huge market in the face of growing American protectionism.

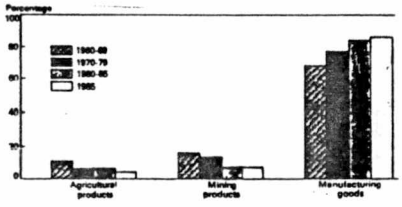


Figure 3

Commodity Composition of Canadian Exports

Source: Economic Council of Canada (1986, p. 84.)

2)U.S. Reasons For Wanting an Agreement

Canada's motivations for entering into a new trade agreement, despite its historical ambivalence about such arrangements, had important origins in the challenges she faced in adusting to the new global economy. Specifically, most economists and decision-makers anticipated that a free trade agreement would bring Canadian manufacturers improved productivity. The United States perceived the CAFTA as part of a broader multilateral trade strategy. Economic changes at home and abroad had restrained exports in areas of traditional strength, namely agriculture, high technology, and services. Foreign practices that impeded market access became more critical to the national interests. Policy-makers saw a trade agreement as a means for addressing broader multilateral concerns with regard to these practices, as well as facing important bilateral issues with Canada. Some like then Treasury Secretary James Baker perhaps saw the agreement as a way of promoting bilateralism in the face of the lengthy duration of the Uruguay Round of the GATT (recently completed in December 1993). Baker's approach revolved around the question: why not pursue a "market-liberalization club" in case the multilateral talks continue to bog down? (Baker, 1988, p. 41.)

The United States had fewer reasons to seek an agreement than the Canadians. However, the U.S. saw a bilateral agreement as useful in a number of ways. First, American policymakers have focused increasingly on the limitations of the GATT with regard to services, investment, intellectual property, and the like. Many in the foreign trade

community saw an agreement with Canada as providing a model for the GATT in the future. Second, they viewed an agreement with their northern neighbor as providing a stimulus for the GATT negotiations or as an alternative in the event of their collapse. The negotiations offered the U.S. a chance to eliminate the higher Canadian tariffs (about double the U.S. average) and to solidify improvements in the trade and investment climate that began to blossom toward the end of the Trudeau years and at the beginning of the Mulroney era. As Canada loosened its restriction on energy exports to the United States and permitted new investment in that sector, the U.S. sought assurances that it would not again impose aggressive screening and performance requirements on American investment or limit U.S. access to Canadian energy and other resources. (Morici, 1990, pp. 15-16.)

During the 1970s, as U.S. competitiveness waned in a succession of mature industries -such as textiles, steel, and automobiles- due to rising oil prices coupled with a decline in domestic production, a view emerged among decision-makers that the U.S. could pay for rising imports only by emphasizing its comparative advantages in agriculture, high-technology manufacturing, and services. Structural factors and macroeconomic constraints made such adjustments more difficult than at first imagined.

In agriculture, technological breakthroughs and more market-reponsive policies have increased the productivity of some competitors such as Brazil, Australia, and Indonesia (witness how grain shipments from Canada, Australia, and other countries increased as a result of the U.S embargo of grain in response to the Soviet

invasion of Afghanistan). As a result, growth in the demand for exports from the United States, Canada, and the EC has been limited. These international trends -along with an overpriced dollar from 1982-85; U.S support programs that raised commodity prices above world levels; and various protectionist practices with respect to its major trading partners- cut the share of agricultural products in U.S. exports from 19% in 1981 to 12% by the end of the decade. (Morici, 1990, pp.2-3.)

In high-technology manufacturing, such as commercial aviation and advanced electronics, the U.S. faced escalating competition from Japan and Germany which was firmly rooted in a general leveling of research and development (R&D) efforts and technological capabilities among the major advanced industrial countries. While the U.S. had put most of its R&D efforts into containing the Soviet Union, its principal military allies and trading competitors had focused on the civilian part of the economy developing new consumer products while receiving the protection of the American security blanket. In Japan, South Korea, Germany, and France -among others- aggressive industrial and trade policies were utilized to improve competitive performance vis-a-vis U.S. firms (Morici, 1990, p. 3.)

Over the past few decades, services such as travel, transportation, licensing, banking, and private business services had risen, but not as dramatically as once anticipated. Since 1969, they have held quite steady, between 10% and 15% of current account receipts. Many service exports have been restrained by a maze of foreign practices lying outside the jurisdiction of the GATT. These

were extensively discussed at the recent Uruguay Round. Of equal, if not greater significance, were a number of factors that contributed to competiveness in high-technology manufacturing (investments in R&D and human capital) and were also important in business services. As the experience and education of the labor force in Japan and the other Asian "tigers" increased and these countries' achievements in technology-intensive manufacturing grew, the United States encountered even greater competition. (Morici, 1990, pp. 3-4.)

3)Both countries felt a need for improving international competiveness

Canada's competitive strengths had historically rested on its natural resources and primary products. The slowing of growth in these sectors in the 1960s and 1970s was caused by sluggish global demand for resource products and increasing foreign competition. The largest growth in exports during this period was in the transportation sector as a result of the Auto Pact. Canadian manufacturing firms faced many of the same challenges as their U.S. counterparts, but were in a weaker position vis-a-vis the world. Canadian manufacturing productivity in 1988 stood at close to 70% of U.S. levels, about the same as in 1970. In this regard, underspecialization and slow dissemination of new industrial technologies have historically been key problems. Part of the cause lies in the fact that having a small market, companies have been more conservative in their approach to marketing new products. In a larger market, the costs of delivering a new product to market are much more spread out. To improve performance, Canadian firms should accelerate rationalization and the

implementation of new manufacturing systems. (Morici, 1990, p. 6.) Much has been made of the fact that before the Auto Pact, Canadian automakers (U.S. subsidiary branch plants) gave Canadians far fewer choices in the automobile market. With the implementation of the 1965 agreement, manufacturers further rationalized production and allowed Canadian plants to specialize more in ways to which they were well-suited.

During the 1980s, the American budget and trade deficits distorted U.S. patterns of consumption, production, and investment. As the value of the dollar rose about 45% from 1980 to 1985, exports, employment and profits were constrained in agriculture, high-technology manufacturing, and tradeable services. At the same time, the adjustments that import competition and new technologies forced on resource-based industries and mature manufacturing increased. The current account balance moved from near balance to a deficit equal to 3.3% of GNP. Manufactures accounted for 85 % of this drop, accelerating the shift in employment to nontradeable services. (Morici, 1990, p. 6.)

The impact on the Canadian dollar was quite signficant. From 1979 to 1985, it fell about 14% against its southern counterpart; it also rose with it against European currencies and, initially, the Japanese yen. However, its rise was not as great as that of the U.S. dollar. This improved the competiveness of Canadian exports in the United States, but weakened it elsewhere. As a result, Canada's current account and merchandise trade balances with the U.S. improved, while they declined with the rest of the world. The American share of

Canadian exports rose from 69 % to 79% in this period. (Wonnacott, 1987, p. 60.)

4)A new North American common market?

The EC's 1992 initiative was one of the driving forces that brought the two North American countries closer together economically. It may have more important consequences for Canada than for the U.S. Assuming that the European countries can hammer out their differences, their internal market of twelve countries will contain 330 million people, more than the 250 million in the American market (thus the Canadian decision in 1990 to enter into the broader North American Free Trade discussions with Mexico). Canadian firms may find themselves at the same kind of market disadvantage with respect to non-tariff measures that they experienced thirty years ago with respect to tariffs when the EC and EFTA were formed. This would seemingly force Canada to seek greater harmonization of domestic economic policies with the U.S. Many Canadians are quite concerned that such developments would compromise their future. It must be pointed out that if this were to occur, it would result from larger events in the economic environment than the implementing of the CAFTA.

C)Some of the Economic models used by those advocating the CAFTA

1)Assumptions and parameters

Those who advocated the CAFTA did so based on a number of econometric studies. Economic models were necessary to obtain a quantitative assessment of the costs and benefits such a bilateral agreement would produce. These models established the orders of magnitude of the impact of existing restrictions and policies and

suggested what results might be obtained if certain restrictions on trade were removed. When one chooses an economic model for the purpose of analyzing the CAFTA, it is imperative to consider whether the analyst makes clear what methods were used, what assumptions were made and under what conditions the assumptions would be valid.

These studies were all conducted previous to the completion of the CAFTA. Thus, it can be said that they are not simulations of the economic consequences of the agreement. They attempt to quantify the economic impact on the U.S. and Canada of removing the tariffs on their bilateral trade. There is no dimension of time. Essentially the effects of the bilateral tariff removal are measured in these models as the difference between two different states of the world: one in which the economic actors have adjusted to life with tariffs and one in which they have adjusted without tariffs. Generally speaking, the desirability of a trade agreement will be judged on the basis of the resulting "welfare" effect. This effect is a measure of how much better off a country, as a whole, has become. It is not a measure of the aggregate change in output. After the CAFTA takes effect, the price of many goods and services will change. If the changes result in U.S. consumers being able to buy more goods with the same incomes, the U.S. will experience a positive change in welfare. The same applies to Canada. On the other hand, if the CAFTA results in a rise in the average price level, then the welfare effect would be negative. (Shea, 1988, pp. 383-384.)

Basically, the gains from reducing trade barriers have been estimated within a rather simple framework, whose underlying

assumptions include perfectly competitive markets and constant returns to scale. Constant returns to scale means that there are no cost advantages to large-scale production. Fundamental differences in endowments such as climate, natural resources, technology, and capital cause differences in relative prices between nations which in turn create the climate for trade. A country such as Brazil differs in soil and climate from the the United States which explains why it is a low-cost producer of coffee as compared to the U.S. A corollary example would be wheat in the United States. As we have already said countries gain by exporting products with respect to which they have a comparative advantage to pay for low-cost imports from foreign countries. (Wonnacott, 1987, p. 22.)

A more difficult approach includes the economies of large-scale production, which provides one of the rationales for the bilateral free trade agreement. In the presence of economies of scale, firms have an incentive to grow and oligopolistic or monopolistic markets might result, because large firms have a disproportionate advantage in setting prices. When there are analytic complexities introduced by economies of scale greater concentration of market power often results. When these complexities are taken into account, the estimation of the effects of tariff reductions becomes a very complicated endeavor. As a result, the simpler framework -with constant returns to scale and perfect competition- has remained very popular among those who study international economics. Before going on to look at the effects of economies of scale, I will mention some of the work done by economists who used models that assumed constant

returns. (Wonnacott, 1987, p. 23.)

On the subject of trade liberalization there are three basic questions economists ask. The first involves the potential real income effects, or efficiency gains or losses that would result from the reduction of tariff and nontariff barriers. From a single country's point of view, an important aspect of these gains or losses is the change in terms of trade as a result of this liberalization. In looking at the results of the liberalization it is also useful to consider the efficiency gains in production. The second question concerns winners and losers from the liberalizing of trade both within a country and between countries. The third question relates to the short-term impact of protection, or trade liberalization on employment and what adjustments each country needs to make to accommodate this change. By summing up the various gains and losses, the overall effects of tariff reduction can be estimated. (Brown and Stern, 1987, pp. 183-186.)

2)Two Nation Studies

In a Department of Labor study, Markusen and Wigle built a model which disregarded the international boundary and divided Canada and the U.S. into eight trading regions. One of the major features of this model was its demonstration of the effects of a free trade agreement on firm size in Canadian manufacturing. Traded goods were differentiated by country of origin as well as by physical characteristics. Canadian manufactured products were treated as quantitatively different from those produced by American or Japanese manufacturers. The model indicated that as a result of an agreement

like the CAFTA both countries would experience a positive, though very small increase in welfare. The GNP of the U.S. would increase by .08%, while that of Canada would increase by 1%. U.S. investment in Canada would not be significantly affected one way or the other. The impact on employment would be neglible. (Shea, 1988, pp. 386-388.)

Brown and Stern concluded in their 1987 study that the U.S. might experience a small rise in its economic welfare as result of the elimination of bilateral tariffs. Given the comparatively small estimates of the aggregate effects, it is to be expected that the effects on individual sectors will also be comparatively small in the U.S. Some sectors would evidently experience an expansion in output, trade, and employment, while others would experience a decline. These authors contended that who would gain and who would lose would depend on the patterns of tariffs and non-tariff barriers that were removed in the implementation of the CAFTA. If one takes into account that the tariff elimination will be phased in over a period of ten years, the effects on sectoral employment in both countries would not be particularly large in relation to the normal turnover in labor markets that is going on all the time. The effects on the various regions or states were not estimated, but only on each nation as a whole. (Wilson, 1988, pp. 42-44.)

3)Impact on the U.S.

Brown's 1987 study focused on the relationship between economic structures and the types of adjustment a country faces in a bilateral free trade agreement. She compared the economic effects of the 1985 free trade agreement with Israel to those of the proposed agreement

with Canada. On a trade-weighted basis, both Canada and Israel maintained higher tariffs than the U.S. Canada's tariffs on American goods averaged 3.8%, while Israel's averaged 4.3%. In contrast, U.S. tariffs on Canadian goods will average less than 1% while U.S. tariffs on Israeli goods average 1.6%. By comparing the overall results of the two free trade agreements, Brown found that in terms of welfare changes, each free trade area was beneficial to the U.S. The results from these simulations showed that trade agreements increase intra-industry trade between countries. The CAFTA would be strongly characterized by intra-industry trade in manufactured goods, which reflects the similar resource endowments of the two countries. The specialization that should occur would be found in the Canadian exports of petroleum and nonferrous metals products in exchange for some U.S. semi-manufactured goods. (Shea, 1988, pp. 391-393.)

4)Impact on Canada

Because of the importance of trade reform to Canada, the empirical work done on it by economists has been concerned largely with its impact on her. First, consider the simplest case scenario: what would happen if Canada unilaterally eliminated all tariffs? The effects of such an action were estimated in the 1978 study done by Broadway and Treddenick. They concluded that Canadian real income would be slightly depressed; that is, Canadian tariffs provide the country with a small net benefit that amounts to less than 1% of GNP. The reason is that foreign exporters rather than Canadian consumers bear the burden of the Canadian tariffs. The Canadian tariffs paid by foreign producers more than outweigh any efficiency cost of the tariff. (Wonnacott,

1987, pp. 24-25.) Harris estimated in his 1984 work that a unilateral tariff cut would have little or no impact on Canadian real incomes. He calculated that the Canadian tariff paid by foreign producers would be essentially the same as any efficiency cost of the tariff. This result depended on constant returns to scale. When economies of scale were introduced, Harris found that unilateral free trade would increase real income by 2.5%. In 1985, Hamilton and Whalley built upon the Harris study and estimated that an increase in real income would take place, but would be in the 1% range. The increase that Hamilton and Whalley predicted was smaller because they made no allowance for scale economies but did allow for national product differentiation. (Stern, 1988, p. 42.)

Harris built upon his 1984 article by collaborating with David Cox in presenting a general equilibrium model in which firms enjoy economies of scale. In these 1984 and 1985 works, the authors predicted that a multilateral trade liberalization would result in a substantial increase in real national income. There would be gains in real wages, GNP, in the output and value added of most industries, and foreign investment flows into Canada. Since over three-quarters of Canada's trade is with the U.S., a bilateral free trade agreement between the two countries would have effects similar to those produced by a multilateral agreement, though not as large. The Harris-Cox analysis suggested that Canada did not need to worry about an erosion of its manufacturing or being transformed into a resource-rich colony under such an agreement. The authors believed that safeguards would not be necessary to prevent the deindustrialization of Canada. The

agreement would encourage labor to shift from the primary sector into the secondary manufacturing sector, rather than the opposite. (Burgess, 1987, p. 198.)

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PART IV: THE DIPLOMATIC STORY: NEGOTIATION OF THE AGREEMENT

While historians looking back at the CAFTA negotiations will probably give the primary credit to President Reagan and Prime Minister Mulroney (although he was deeply involved throughout the process, he generally stayed in the background) for their successful completion, the two leaders were not the key players in the operational phase of the negotiations. In the first section, I shall identify the key participants for both sides. Some general discussion of the negotiations follows in the second section. Brief mention of the passage of the CAFTA in both countries will be made in the final section.

A)Major players

1)The American team

Ronald Reagan was not a hands-on president and generally delegated most issues to those individuals who had the most expertise. Reagan left free trade to James Baker III, his treasury secretary and Clayton Yeutter, his trade representative. Baker and Yeutter were not actively engaged in the talks until the final weeks of September 1987. Peter Murphy was the principal negotiator for the U.S. Murphy had considerable negotiating experience, being the chief negotiator in the international textile talks and a permanent representative to the GATT talks in Geneva.

Murphy was operating out of the United States Trade

Representative's (USTR) office when he was made chief negotiator. He utilized a small staff in preparing for the negotiations. Before the formal negotiations began in June 1986, Murphy was given from President Reagan a "wish list" drafted by Baker and Yeutter. The list included:

a)no special exemption for Canada under U.S. trade remedy legislation;

b)a deal on government procurement;

c)access to Canadian service markets;

d)comparable treatment of intellectual property rights and investment; and

e)guarantees that provinces would abide by an agreement. (Campbell and Pal, 1991, p. 199.)

The approach of the American team was to bank on sheer economic strength to offset whatever advantages the Canadians had in preparation. The United States did not have to operate under the glaring light of the media or congressional oversight until the final stage of the negotiations. Murphy relied for his technical support largely on the good will of the various departments whose powers he would be trading away. The International Trade Commission would have to advise on any change in tariff policy, while the Treasury, Commerce, and Agriculture departments would have to approve any policy changes in their functional areas. These agencies assigned middle managers to work with Murphy on a part-time basis. (Ritchie, 1988, pp. 20-21.)

2)The Canadian team

Derek Burney was Baker's counterpart on the Canadian side. He was a career diplomat with a decisive and forthright style who came to the negotiations as Mulroney's chief of staff. Burney gained a great deal

of respect from the prime minister for his role in organizing the first "Shamrock Summit." He kept Mulroney abreast of the negotiations and was actively involved in the final weeks of September 1987 when time was running out due to the congressional deadline imposed on President Reagan. Some additional key players that aided Burney in the final negotiations were Trade Minister Patricia Carney and Minister of Finance Michael Wilson.

The chief negotiator for the Canadians was Simon Reisman, who had successfully dealt with the Americans on the completion of the Auto Pact some twenty years earlier. After retiring from public service, he headed a high-profile consulting firm until he was chosen by Mulroney to head the Canadian delegation. Reisman was often characterized as blunt, profane, and short-tempered by distractors and associates alike. He organized a large staff (many times larger than the Americans) operating out of the Trade Negotiations Office (TNO) and was paid $1000 Cdn./day for his services. (Doern and Tomlin, 1992, p. 7.) Reisman's goals for the negotiations were mentioned earlier in the MacDonald Commissions' findings.

The TNO was established for the sole purpose of conducting these negotiations. The management team read like a "who's who" in Canadian policy circles. Top experts from inside and outside the government from various functional areas such as trade, agriculture, finance, and industry were assembled in this superagency. Parts or the whole of complete divisions of federal agencies were brought in to work on a full-time basis. The team was directly accountable through Reisman. Ritchie, 1988, pp.17-19.)

B)The formal negotiations

The first formal negotiating session was held on June 17, 1986. In this initial meeting, American officials emphasized that nothing should be left off the table if the two sides were to be successful in their pursuits. Peter Murphy insisted that even the Auto Pact and social programs must be negotiable, even though Mulroney claimed a number of times that this was not the case. In discussions with reporters after the first meeting, Murphy and Reisman gave widely different accounts of what was on the table. (Campbell and Pal, 1991, pp. 201-202.)

1)The countries had different agendas

The differences in agendas were a natural outcome of the differing problems facing the two countries. For the Canadians, the primary problem was the use of the contingency protection measures available to American companies under U.S. trade law that harassed Canadian exporters. For the Americans, the primary problem was the perceived unfairness of trading practices of other countries, including Canada. These practices included the use of subsidies.The negotiations would also provide an opportunity to develop a regime that would prevent future discrimination against foreign investment which was important to the U.S. The Canadians, however, did not see subsidy practices as being trade related as they resulted from cultural and regional development policy. (Doern and Tomlin, 1992, p. 43.)

2)Changes in late 1986 impact the negotiations

The 1986 meetings were largely exploratory and were held behind closed doors. There were several broad developments in the talks and

several suggestions that they would not be completed by the October 3 deadline of the next year. First, the U.S. seemed only half-committed to the talks. This impression was produced among other things by problems in the Senate Finance Committee and the appointment of a junior official to head the American delegation. Second, there were continuing disputes about what was and what was not on the negotiating table as exhibited by the different accounts by Murphy and Reisman. Third, there were emerging tensions on the Canadian side between Reisman and other trade officials in the Mulroney administration. Finally, there was the U.S. decision to slap a 15% tariff on imports of Canadian softwood lumber as a result of provincial subsidies that aided the Canadian companies. (Campbell and Pal, 1991, pp. 202-203.)

Congressional elections in the United States saw the Republicans losing control of the Senate to the Democrats. Democrats were now generally seen to be more protectionist and this would complicate the implementation of Reagan's trade liberalization policies toward the rest of the world, especially Canada. Lloyd Bentsen (D-Texas) replaced Robert Packwood (R-Oregon) as head of the Senate Finance Committee. The Progressive Conservatives had gone from one trade crisis with the U.S. to another without a great deal of success. The deadline was less than a year away and there was talk in both countries of possible failure.

2)Great uncertainty in Canada

The first half of 1987 produced more problems. Canada resolved the softwood lumber dispute by agreeing to tax itself in the amount proposed by the U.S. Public confidence in the government's ability to

negotiate an agreement with the Americans was eroding. The Mulroney administration launched a $12 million publicity campaign in January to herald the benefits of the CAFTA. Further doubts were raised as Murphy contradicted the U.S. ambassador's assurances that the Auto Pact was not on the negotiating agenda. Reisman called his remarks "mischievous." (Campbell and Pal, 1991, p. 203.) In July, Murphy left Ottawa after half a day of what was supposed to be three days of discussions. On the Canadian domestic front, the Premier of Ontario, David Peterson, was adamantly against any bilateral trade agreement that did not allow the provinces direct participation. Peterson felt that the Mulroney government intended to isolate the largest province and punish Ontario as part of its Western Canada-Quebec strategy. (Doern and Tomlin, 1992, pp. 143-147.)

By the time the provincial election campaign got under way late in the summer of 1987, free trade had become an intensely partisan issue between Ottawa and Toronto. The Peterson government's opposition to the negotiations was attacked by the federal government as unpatriotic. Peterson set out six conditions that would have to be met before Ontario would approve the deal. (More detail about this in the section on the political debate in Canada.) These conditions were moderate and were spelled out in the federal position papers that he had earlier given to the Mulroney administration. In the event that the CAFTA was signed, Peterson could go along with it without seeming to cave in. By the time the premiers of the various provinces met in Ottawa in mid-September, it was quite clear that the negotiations were in serious trouble, and Peterson's position began to harden along with

those of some of the other provincial leaders. (Doern and Tomlin, 1992, p. 147.) Some compromises on Canadian investment restrictions, automobile pact revisions, and two other issues were made, but the two sides remained far apart on two major ones. The Americans wanted free entry without restrictions of investment capital and the Canadians demanded a binding dispute tribunal.

4)Reagan calls in the "big guns"

The "make or break" meeting came a week later on September 21 in Washington. Burney and Wilson flew to Washington to join Allan Gotlieb (Canadian ambassador to the U.S.) and James Baker in a purely political meeting designed to take note of the negotiations and determine what the consequences of failure would be. This intervention by the Canadian team was meant to show that they were trying to exert some political muscle on the negotiations. However, the political indications were that the U.S. would never accept a binding dispute resolution mechanism that it felt would be unconstitutional. Something "softer" would have to be put on the table if the deal was to be saved. (Campbell and Pal, 1991, p. 207.)

Reisman met with Murphy in a grueling eight-hour session on the 21 in which both sides seemed only to harden their positions. The next day did not go any better as Murphy unexpectedly brought forth two new proposals, one calling on Canada to open up its cultural sector to American investment and the other involving major changes in Canada's regional development subsidies. Reisman was simply beside himself and cancelled a private dinner meeting scheduled for that night. The talks were broken off on September 23 as Reisman announced that he was

going home. The U.S. Embassy was swift to respond to the unexpected turn of events. Within ninety minutes of Reisman's departure from Washington, it issued a conciliatory statement from Yeuter. "We are prepared to resume talks and are willing to meet around the clock, if necessary, to complete an agreement by the (October 3) deadline." (Hepburn, September 26, 1987; pp. D1 and D6.)

A flurry of activity occurred in the next few days as both sides burned the telephone lines in order to get the talks resumed. On October 1, Wilson, Carney, and Burney flew back to Washington but made little progress and returned to Ottawa the same day. The talks seemed finished. It was Baker's dramatic fifteen-minute phone call to Burney at 9:40 p.m. interupting a cabinet meeting, that set the stage for the resumption of the talks. Baker addressed the most contentious issue between the two countries: the binding dispute settlement mechanism. The U.S. offer did not meet all of Canada's conditions but it provided Mulroney with a glimpse of hope and persuaded him to dispatch a high-level negotiating team back to Washington the next morning to resume the talks. (Janigin, October 12, 1987; p. 23.)

5)An agreement is reached

Reisman and Murphy met at the United States Trade Representative's office, while the political teams made up of Wilson, Carney, and Burney met with Baker and Yeutter at the Treasury Department trying to hammer out the final details before the deadline. At the same time, the Reagan administration kept in touch with key Senate participants to ensure that any compromises could survive the key congressional committees. By Saturday night (October 2), ninety percent of the

outstanding issues had been worked out between the two parties. The American proposal was turned down by the Canadian cabinet, and the Canadian delegation began to pack its bags. Over fried chicken in Baker's office, senior Canadian officials expressed sadness at coming so close. Carney claims that Baker studied the American proposal and the Canadian one, walked out of his office and down the hall, and told his lawyers to be creative in their efforts to nail down the agreement down. (Doern and Tomlin, 1992, pp.197-199.) Baker won some concessions on the financial and investment portions, while the U.S. accepted a binding dispute settlement mechanism. He called President Reagan at 11:40 p.m. and told him that American and Canadian negotiators had agreed on the outline of a historic free trade pact. He urged the President to send a letter to Congress before the October 3 deadline expired for "fast track" consideration of the matter. At six minutes to midnight, White House messengers delivered sealed envelopes to clerks of the Senate and the House of Representatives. Inside the envelopes were letters signed by the President instructing Congress of his intention to enter a free trade agreement with Canada. Canadian Trade Minister Carney announced to reporters a couple of minutes after midnight that an agreement had been reached. Carney declared: "It is an historic agreement, it is balanced, and it benefits all Canadians in all regions." (Janigan, October 12, 1987; p. 22.)

The two sides met a number of times during the next couple of months to hammer out the details of this bilateral pact. During this period the provinces, most notably Ontario, made a number of technical recommendations to the Canadian delegation. The premiers met with the

federal government to go over the agreement and see that it met their provincial concerns. This in itself was a major political achievement, considering the constitutional problems facing Canada at the time. Ottawa claimed that the CAFTA could proceed with or without the provinces, because international trade was a federal matter and the agreement touched few areas of provincial jurisdiction, nevertheless it was a quasi-constitutional agreement. The Ontario government had never truly participated in the consultative process and thus had very little input into the discussions with the Americans. Even on the crucial issue of the Auto Pact, Ontario had never been consulted, and it had never agreed to the federal decision to eliminate duty-remission programs from the Pact. In the end, Ottawa overrode the Toronto government and provincial officials were simply informed of their elimination. Seven out of the ten provinces accepted the agreement with Ontario, Manitoba, and Prince Edward Island in opposition (more about this in the political debate section). It was not until the early hours of the morning of December 7 that a resolution of all the issues was reached. Finally, on December 10, 1987, the painful negotiations came to an end. (Doern and Tomlin, 1992, pp.148-149 and 200-201.) The national debate would be continuing in Canada. It was just beginning in the U.S.

There followed a long political battle over approval in the two countries which led to an election in Canada. On August 9, 1988, the House of Representatives voted overwhelmingly in favor of the agreement. Five weeks later, the Senate did the same and President Reagan signed the bill on the White House lawn on September 28. On

December 24 the House of Commons voted in favor of the CAFTA, as did the Senate on New Year's Eve. The bilateral agreement took effect in both countries on January 1, 1989. The three chapters that follow will deal with the political struggle which influenced the negotiation process, particularly in Canada, and then took center stage as the governments sought approval of the agreement.

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PART V: THE POLITICAL STRUGGLE IN CANADA: PLAYERS AND HISTORY COVERING 1986 AND BEFORE

This part of the dissertation deals with the political struggle that took place in Canada with respect to the CAFTA. It opens by discussing the participants and then recounts the history of the struggle through 1986.

A)Interest groups: how they evolved in Canada

Political scientists have traditionally focused on the politics and process of trade policy and the role that interest groups play in deciding which industries or groups are protected along with the role of the government and the bureaucrats play in this process. Since Canada's economic history and governmental institutions are quite different than those of the U.S., the way in which Canada's interest groups have formed and prospered is different. Before turning to the supporters and opponents of the CAFTA, some introduction concerning how interest groups developed in relation to the economic development of Canada is in order.

1)Groups favoring the CAFTA

a)The evolution of business groups

Early close relationships developed between private interest groups and the British colonial governments. The strongest supporters of the CAFTA were business groups. Let us begin with a discussion of how they evolved in Canada. Before confederation, commercial capital interests sponsored the development of railways and which formed the

infrastructure of the developing colony. The projects undertaken by these groups were usually backed with some form of subsidy from the particular government in charge. The desire to expand the colonies west into the prairies and east to the maritimes combined with the fear of the U.S. after its Civil War, were major incentives for the enlargement of the colonies into the new Confederation of Canada in 1867. Representatives of such interests as the major banks, railways, and shipping and trading companies had ongoing relationships with the governments in British North America. Policy making was shared between these people and the elected politicians sitting in the federal and provincial governments. This was quite different from the pattern of economic development that emerged in the U.S. The Canadian pattern was later referred to as "elite accommodation." Governments were closely involved in the financing and planning of railroads and other major capital-intensive developmental projects. Connections were often forged between these capitalistic interests and the political parties of Canada and through them with the governments and bureaucracies. Over time these relatively informal relationships between the political leaders and the civil service on the one hand and the business leaders on the other, hardened into a more bureaucratic relationship. As governments built up larger administrative structures in order to deliver government services, interest groups affected by these actions were closely involved with the governments along clientele lines. (Thornburn, 1985, pp. 3-4.)

Business groups were in the forefront of this relationship and saw the advantage of organizing associations, which would allow them to

collaborate in their consultation with the governments, be they provincial or federal. Permanent organizations with specialized staffs were built up to carry on liaison with the various governmental units. A kind of parallel process was also developing in government. On the one hand, there was a representative system through which members of Parliament were elected in their constituencies to sit in the legislative chambers and hold the governments accountable. While legislation was almost always government initiated, the majority party would have to give its assent if it was to be enacted. On the other hand, the opposition soon developed the habit of systematic criticism and at times outright obstruction. The dynamics in the Canadian government (modeled after the British and not the American government) involved a continuous campaign by the opposition to show up the inadequacies of the government, and a corresponding attempt by the majority under cabinet leadership to paint the opposition as incompetent and ill-informed. (Thornburn, 1985, pp.4-5.)

After World War I, the mineral markets of the Canadian shield and the paper industry were both developed to serve the growing American markets. The old east-west orientation of the Canadian economy was being challenged by the north-south connection, which pulled the separate regions of Canada into economic relations with their southern neighbor. By 1923, American investment in Canada outpaced that of Great Britian. The change inevitably had the effect of enhancing the power of the provincial governments in relation to the federal government, since the British North American Act of 1867 gave them control over their natural resources. The transcontinental railway

system, which had become the backbone of Canada, was downgraded and this lessened the federal government's power and enhanced the power of the provinces. This new development tied the provincial governments to the markets and corporate headquarters in the United States. The relationship was further enhanced by the development of secondary manufacturing by U.S. subsidiaries in the various provinces. (Bothwell, 1992, pp. 11-12.)

As the Canadian economy matured later in the twentieth century, the north-south connections between Canadian industries and their American affiliates became more important than the east-west pull of Canada. This has generally served to increase the power and role of the provincial governments vis-a-vis the federal government and has allowed provinces to compete against each other for investment and economic development. Many industries have developed closer ties to their American offices than to the Canadian capital and have pushed for further economic integration with the U.S. (Thornburn, 1985, pp. 22-24.) An uproar arose over the nationalist energy and investment policies of the Trudeau era of the late 1970s and early 1980s and the centralizing tendencies of his administration. It eventually led to the election of the Progressive Conservatives in 1984. These developments are much easier to understand when one considers the economic development patterns and how the interest groups organized themselves during this period.

b)Business groups and the CAFTA

One of the pivotal domestic political events on the longer road to the CAFTA was the embrace of free trade by the Canadian business

community. This community had developed behind the high tariff walls that helped them nurture a maturer economy. The manufacturing sector, in particular, abandoned its historical opposition to free trade. The Business Council on National Issues (BCNI), the Canadian Manufacturers Association (CMA), the Canadian Chamber of Commerce, the Royal Bank of Canada, the Canadian Federation of Independent Business, and the Canadian Exporters Association (were the groups which) lobbied hard for the CAFTA. (Cahill, April 2, 1987, p. A20). The BCNI and the CMA were the two most strongly supportive of the Mulroney-sponsored accord.

BCNI was a relatively new participant in the Canadian business lobby. Established in 1976, it had quickly assumed a privileged position among the business interest groups, primarily because it was composed of the chief executive (CEOs) officers of Canada's biggest multinational and domestic firms. Its active style of policy advocacy was soon well known among ministers and senior officials in Ottawa. Its CEOs could speak and act quickly on issues that spread across the entire economy. Its president, Thomas d'Aquino, had numerous contacts and was well liked by political leaders in both the major parties. In contrast, the CMA was an interest group that had been in Canada more or less since confederation and essentially represented the manufacturing sector that was primarily limited to the central provinces of Ontario and Quebec. While not made up of CEOs, it had a membership of high-ranking business leaders who covered 75% of the manufacturing sector in Canada. However, structurally the CMA was a coalition of numerous sub-elements of the manufacturing sector, and

this structure dictated a decision making process much more cumbersome and complex than the one that existed at BCNI. (Doern and Tomlin, 1992, pp. 46-47.)

The CAM bought into the idea of free trade much more gradually than the BCNI. A late 1970s poll among its membership indicated that about one-third favored free trade, one-third opposed, and the final one-third were undecided. (Doern and Tomlin, 1992, p. 49.) After the 1981-82 recession, Canadian manufacturers were forced to acknowledge that they were very much a part of the global economy. They felt that the only way that they could prosper would be to gain access to a larger market like the United States and to achieve this without losing their Canadian identity in the process. CAM's general manager Larry Thibault put it in these terms:

> That's the logic that has driven us to endorse the free trade negotiations. It's not a blanket endorsement. It's not a blank cheque. There are a number of caveats and concerns. One concern is that it's got to be genuine access and we don't want to sell our birthright just to get it. But we should at least support the effort to see what kind of deal we can get. Then when we do get a deal, presumably there'll be a second stage when manufacturers can sit back and see if we want to support the deal. (Cahill, April 2, 1987; p. A20.)

The importance of Peter Lougheed's influence on Mulroney and the Progressive Conservatives should not be understated. By the early 1980s, Lougheed was in his third term of office and was widely thought to be the most influential politician in Western Canada. The free trade issue gave him an opportunity to gain a satisfying victory over those Eastern Canadian interests that had imposed the NEP in his region of the country and left the oil and gas industry screaming. Lougheed's views on free trade were colored by more than his

relationship with the federal government in Ottawa; unlike Trudeau, he was one of the few Canadian political leaders who had developed strong political contacts in the American Congress. His close American friends included senators like the late Henry "Scoop" Jackson, a major player in Washington. (Doern and Tomlin, 1992, pp. 50-51.)

Lougheed left office in November 1985 to help with the 1988 Calgary Olympics as well as to co-chair the Canadian Alliance for Trade and Job Opportunities. Along with his former nemesis, Donald MacDonald (of the Commission) he helped lead the fight for the CAFTA. He also played a major role in keeping the opposition of the Ontario Premier (David Peterson - Liberal) muted. Lougheed let it be known that if this deal fell through because of Ontario's opposition, there would be unalterable damage to national unity. (Doern and Tomlin, 1992, p. 52.) The relationship between interest groups and the national and provincial governments in power is a symbiotic one. In the fight for the passage of the CAFTA the lines between the federal government and the interest groups supporting the agreement were quite blurry. There was a revolving door: government officials moved from External Affairs or the TNO, to positions in think-tanks or universities or corporations advocating the CAFTA.

2)Groups opposing the CAFTA

The opposition emerged early as well. The opponents to the proposed free trade agreement thought the results would be quite different from what the Mulroney administration was telling the Canadian people they would be. There were a number of claims that the opposition made, among them at least four stand out:

a)less jobs;

b)threats to Canadian social programs;

c)loss of sovereignty as a result of greater economic integration with the U.S.; and

d)a threat that Canadian culture would be absorbed into the larger world dominating American culture.

Labor unions took only a few weeks to announce that free trade would be a national economic disaster. The Canadian Labour Congress (CLC) presented a brief in May 1985, to International Trade Minister James Kelleher, which alleged that free trade would cost Canadian workers one million jobs. Dick Martin, an executive vice-president of the CLC, claimed that, "if we went down the road of free trade, many of the manufacturing plants now located in Canada would simply move to the United States because they could have access in both markets." (Campbell and Pal, 1991, p. 192.)

The opposition included just about every interest group outside of the business community; among them environmentalists, union workers, artists, writers, feminists, and senior citizens. The Council of Canadians (COC),the CLC, the Canadian Auto Workers (CAW), the Jesuit Centre for Social Faith and Justice, United Church of Canada, Canadian Council of Retirees, Action Canada Network, and the National Action Committee on the Status of Women all opposed the agreement. (Cahill, April 2, 1987, p. A20.) These groups saw Canada's economic future under any free trade agreement as bleak. A net decrease in jobs would take place for two reasons. First, workers in heavily protected industries, such as textiles, shipbuilding, small farming, and food

processing would lose their jobs. Second, the kind of large U.S. multinational firms that free trade would encourage tend to be heavily mechanized and more capital-intensive. Mel Hurtig maintains that American companies created less than 1% of new jobs from 1979 to 1985, while taking one-third of the profits created in Canada. "The proposed free trade agreement will serve to exacerbate the situation and Canada will become a warehouse economy." (Goar, December 15, 1987, p. B3.)

Reisman met at the first opportunity in the new year with provincial trade officials before the formal negotiations began in June. One part of this initiative involved the industrial sector committees with members from the private sector which were to advise the negotiating team. On January 9, the government announced thirty-eight appointees to the Advisory Committee, chaired by Walter Light, former CEO of Northern Telecom. The Committee would report directly to the international trade minister, but would work with Reisman to give him a sense of the private sector's opinions. Despite a boycott by the CLC, the Mulroney administration did manage to appoint one labor representative, James McCambly, head of the 220,000-member Canadian Federation of Labour, the only labor organization, prepared to support the free trade initiative. (Campbell and Pal, 1991, p. 196.)

The labor movement's decision not to join the supporters of the free trade coalition was seen to be a seminal event in the fight over the proposed agreement. In hindsight, one might be inclined to call it a tactical error on their part for it froze them out of a chance to advise the government on the initiative. The Canadian labor movement

is much more to the left than their American counterparts, and the influence of their members has never been felt within conservative ranks, as has the influence of U.S. unions with close ties to the Republicans. Advising the government would have undercut their credibility with their rank and file. Had they joined this effort, their core would have been alienated and the "1% gain they made in the agreement would have been overshadowed by the huge loss to their membership." (Interview with Bleyer, 1993.)

B)Parties: how they and the Mulroney administration affected the process

1)The parties and their preferences

The Canadian political party system can be classified as a multi-party one with two dominant parties, the Progressive Conservatives and the Liberals. The Liberals had been traditionally considered the majority party or the party of government. Before Mulroney's electoral victory in 1984, there had been only two Conservative victories since 1911. Even though no third party has ever formed a government in Ottawa, they have won provincial elections. The most prominent third party is the New Democratic Party (NDP), which has consistently won 20 to 25% of popular vote in the last thirty years. The two major parties are arrayed in the center of the political spectrum, with the Liberals generally considered to be center-left and the Progressive Conservatives (also called just the Conservatives or Tories) considered center-right. The Conservatives support private enterprise while the Liberals favor policies that in some ways resemble the policies of the social democrats of those in

Europe. They favor more public ownership and social-welfare schemes. The New Democrats (originally the Co-Operative Commonwealth Federation or the CCF) were initially more ideologically socialist in their aim to restructure society without capitalism, but they have since moderated their program to broaden their base. These are not the only political parties in Canada, but they receive over 95% of the popular vote and all of the electoral votes.

The Liberal party had been in power for twenty years, when it lost the 1984 election and got only 28% of the popular vote. Their large following in Quebec was captured by the Conservatives. They have never been that strong in western Canada and lost even more ground as the number of their members of parliament (MPs) was cut from 147 to 40. Their leader was John Turner, who took over after the resignation of the Prime Minister, Pierre Trudeau. After this huge defeat, the party organization was in shambles and key members resigned before the 1988 elections. While the Liberals traditionally had a good deal of support in the business community, that was lost when Turner announced that he would tear up the CAFTA if elected. He also alienated many of their traditional backers when he later endorsed the Meech Lake Accord. They felt that he had instituted a clear reversal of the policies that they had fought for under Trudeau. Turner was out of step with the natural constituencies of his party which included the women's movement, youth, and the lower income groups. He was generally considered to be a poor campaigner by political commentators, including many in the NDP. They felt that the Liberal's status as the dominant part was ending and that they might become a third-party. (Frizzell, Pammet,

and Westell; 1990, pp. 11-12.)

While the Liberals had dominated the last century of Canadian politics, the Conservatives were seen as the only serious alternative. Their 1984 electoral victory brought about a realignment in Canadian politics. The Tories had generally been the party of high tariffs. Once western Canadian business interests which favored free trade joined the Conservative coalition, other elements in the coalition began to move toward the free trade position as well. One important group which prompted the Conservatives to accept freer trade were the francophones in Quebec. While they had traditionally been protectionist like the Conservatives, they had supported the Liberals almost without exception throughout this century. In the 1970s, the Conservatives had supplanted the Liberals as the party favoring greater provincial rights. At the same time the Quebec francophones were becoming more assertive of their own right to a special status within Canada. The emerging Conservative coalition contained the seeds of its own destruction, however, as the two major partners were on opposite sides of the Quebec question. It would be the challenge of the Mulroney government to keep this coalition in place if it was to repeat its 1984 victory in 1988. (Johnston, Blais, Brady, and Crete; 1992, pp. 70-73.)

The New Democrats captured 18% of the popular vote and 30 seats in the House of Commons in the 1984 elections. Their leader was Ed Broadbent, who was more and more seen not as a revolutionary but as a reformist who would try to move his party toward the center of the political spectrum and hopefully eclipse the Liberals as the main

opposition to the Conservatives. Broadbent expressed concern about the large budget deficits, tried to align the party with small business interests and tone down the rhetoric about nationalizing large portions of the Canadian economy. The NDP was in the forefront of the movement to reject the proposed CAFTA arguing that economic integration would undermine political sovereignty and undo many of the social welfare schemes prominent in both the provinces and the country as a whole. Broadbent also tried to woo the center by qualifying his position on defense and announcing that Canada would not leave NATO during his administration. On the eve of the 1988 elections, the NDP hoped that by banking on Broadbent's personal popularity and move to the center they could seriously challenge the two dominant parties. (Frizzell, Pammet, and Westell; 1990, pp. 12-14.)

C)Regions and provinces

Historically, federal-provincial negotiation has been the most effective means of making public policy in Canada. However, the formal involvement of the provinces in Canadian trade policy is a relatively new phenomena. Provincial participation in Canada during the Tokyo Round of the GATT from 1973-1979 occurred because there was an expectation that this round of multilateral trade talks would begin to confront non-tariff barriers. These NTBs to trade touch directly on areas of provincial jurisdiction. Recognizing this early in the game, trade officials from Alberta demanded to be consulted on the federal government's position. Ottawa's response was to provide irregular briefings to provincial officials and this was generally a one-way street; the provinces nevertheless got updated on the multilateral

talks. (Doern and Tomlin, 1992, pp. 126-127.)

After Prime Minister Mulroney annouced in September, 1985, that Canada was entering into talks with the U.S. on a free trade accord, the provinces wanted to have their say in any bilateral action between the two countries. At the first ministers' meeting in Halifax in November of the same year, the central and western provinces set out to capture a role for themselves. Mulroney had been elected to reverse some of the centralizing tendencies of the Trudeau years that had put Ottawa in a much stronger position vis-a-vis the provinces. He promised greater cooperation and communication with the provincial governments. When the premiers left Halifax, they had the impression that they had secured their goal of substantial participation in the upcoming negotiations. Although this was clearly unacceptable to Ottawa, Mulroney would not directly address the premiers on the subject because of his commitment to cooperation with the provinces. The organizational structure that Ottawa set up to deal with the provinces on the free trade issue was the Continuing Committee on Trade Negotiations (CCTN). They would meet monthly throughout the negotiations. (Doern and Tomlin, 1992, pp. 127-130.)

The final core of early opposition to a deal was the Ontario government headed by David Peterson. Ninety percent of Ontario's exports were already going to the U.S. and they could see no way in which a new agreement could help them. Peterson made his feelings known in the premiers' gathering in 1985, but did not convince his colleagues. There was indeed more at work here than concern about free trade, there was also the constitutional problem of holding the

country together. Quebec wanted greater freedom, if not outright disassociation from the country and the western provinces wanted more autonomy from Ottawa. Before this backdrop, the debate was just now beginning as we enter 1986.

A few weeks before the next first ministers' meeting in June 1986, Mulroney wrote each premier a letter explaining that there would not be equality of participation, but there would be full consultation. He realized that this would be the best way given the length and complexity of the negotiations. Over the course of the negotiations, the prime minister and the premiers met eleven times. However, some of the provincial officials saw this as one-way communication in which the federal government told them what they wanted them to know. (Ritchie, in Crispo; 1988, pp. 18-19.)

1)Western premiers out in front in supporting the CAFTA

The earliest and strongest support came from the provinces of British Columbia, Alberta, and Saskatchewan in western Canada. Alberta's role has already been mentioned. A new premier, Don Getty, took over after Peter Lougheed left office in 1985. Getty along with the other premiers, Bill Vander Zalm of British Columbia and Grant Devine of Saskatchewan were all Progressive Conservatives. They were often called the "political three amigos" of the west during the debate. British Columbia was nearly as strong as Alberta on free trade, while Sakatchewan lingered a little behind them. British Columbia did not depend on the American market (even though it was its prime export market) as much as the rest of Canada because of its more diversified trading scheme with Asia. Getty, a former Canadian

Football League star was tough-talking (using athletic metaphors to make a point) as he called those opposed to free trade in Ontario "wimps." Devine was not as outspoken in his calls for free trade with the U.S., but was a strong supporter, nonetheless. (Harper, December 15, 1987; B6.)

2)Ontario and Quebec's government's split on the CAFTA

The governments of the most populous provinces were split on where they stood in relation to the CAFTA. Ontario Premier David Peterson insisted that he favored greater trade liberalization but thought that the particular agreement was a "bad deal." (Harrington, December 15, 1987; p. B6.) Doern and Tomlin believed the free trade negotiations were a bad idea on at least three counts:

> 1)First, the federal decision to negotiate was seen to have more to do with Mulroney's search for an agenda than any compelling economic reasons.
> 2)Second, although provincial officials acknowledged that Ontario could gain from free trade, they also insisted that the province was already prospering without comprehensive free trade. In the Ontario view, fears about U.S. protectionism were overblown, and in any case the Auto Pact protected Ontario's principal export...and
> 3)Finally, Peterson and his officials were convinced that the Mulroney government intended to isolate the province anyway, determined to bash Ontario as part of its Western Canada-Quebec strategy. (Doern and Tomlin, 1992, pp. 144-145.)

Before discussing how the second-largest province figured in the CAFTA debate, some background is necessary. Canada was created in 1867 when the British passed the British North American Act. This act formed the basis for its constitution and spelled out the terms of Canadian federalism. In 1931, through the Statue of Westminster, Canada became a sovereign country, along with three other members of

the British Empire: Australia, New Zealand, and South Africa. With the passage of this statute, the British Parliament relinquished all authority in all of the countries except Canada. Britain retained some power in Canada because the Canadians could not agree on a formula for dividing power between the federal and provincial governments. In principle, the problem was resolved in 1982 when the federal government asked the British parliament to abandon its control over the Canadian constitution. However, Quebec the only province that did not sign the agreement did not feel bound by it. (McRoberts, 1991, p. 411.) Further attempts to alter the constitution to allow for Quebec's distinctiveness failed in 1990 and 1992.

Historically, Quebec had been opposed to any trade liberalization for Canada. After the province's successful nationalization of Hydro -Quebec in the 1960s which produced substantial benfits, the business community came to believe that the CAFTA would serve them well. Quebec's Liberal government was quite happy with and supportive of the CAFTA. Premier Robert Bourassa orignally had some qualms about it, but ended up feeling that it was best for Quebec. Jacques Parizeau, the leader of the Party of Quebec (PQ) who wants complete independence for Quebec thought the CAFTA would speed up the timetable for separation of a French-speaking nation. He claimed that "on the political level (the CAFTA is) a very encouraging development and, as a separatist...obviously I hope it succeeds." (Hurtig, 1991, p. 266.) Many knowledgeable Canadians think there is little doubt that the CAFTA has been a positive development for Quebec separatists. University of Toronto political economist Mel Watkins is among them.

> Would that one could include Quebec on the list of things for which to be thankful! If the Quebec government opposed the deal, it would be Mulroney who would have already have lost. Instead, Quebec opted out of Central Canada and joined the hinterlands. Both Premier Robert Bourassa and the emerging leader of the opposition Parti Quebecois, Jacques Parizeau, are hot advocates of free trade. Both are also economists, which some may think a sufficient explanation. Bourassa waffled and came down on the wrong side, choosing resource sales to the United States (today hydro-electricity; tomorrow water?) over protecting industry and services. Parizeau says if he were an Ontarian, he would oppose free trade with the United States because he would know that his culture would be swamped by the Americans and that he would lose his job as the U.S. branch plants pulled out. But, in his view, Quebec's culture is sufficiently protected from the Americans by language, and Quebec doesn't have the branch plants to lose. He also has an agenda that sets free trade with the United States as a way of weakening Quebec's ties with the rest of Canada, thereby facilitating Quebec's independence. (Watkins, 1992, pp. 108-109.)

3)The Atlantic goes with the CAFTA

The Atlantic provinces of Newfoundland, Nova Scotia, New Brunswick, and Prince Edward Island (PEI) are the smallest in terms of population. Their combined populations are less than 2.5 million (less than 10% of Canada) as evidenced by 1990 census data. In many ways, they had as much to gain as to lose from any free trade agreement with the U.S. Newfoundland and Nova Scotia were the most fully engaged in the consultative process during the negotiations. If regional development subsidies were cut the most economically underdeveloped part of the country would be the big loser. However, three of the four governments supported the agreement with tiny Prince Edward Island being the lone dissenter. Premier Joe Ghiz rejected the deal because he thought "that if this framework is adopted by Canada, we will have surrendered our essence as a nation." (Toulin, December 15, 1987; p. B6.)

It is difficult for one to see why these provinces agreed with the

proposal, unless some special arrangements were in the offing for them. Incredible poverty and emigration have been eased by Ottawa's decision to establish national programs like medicare, unemployment insurance, and other provincial grants in aid. The private sector is largely a service sector dependent on government spending, while the resource (mainly timber and fishing) industries provide a decent living for only a small number of people. The Maritimes are still troubled by under-development and hard times. (Sinclair and Clow, in Cameron; 1988, pp. 83-84.)

D)The Political Struggle Begins

1)The CAFTA will serve several functions

The emerging consensus that had developed on trade policy was designed to address the problems identified by the MacDonald Commission. This fact was reflected in Mulroney's statement to the House of Commons in September 1985.

> Economics, geography, common sense and the national interest dictate that we try to secure and expand our trade with our closest and largest trading partner - protectionist measures are always self-defeating. This impulse to protectionism is defensive and negative - yet entirely understandable in human terms. This is what we are up against. The answer to this problem lies in sound agreements, legally binding, between trading partners, to secure and remove barriers to their mutual trade. That is our approach to world trade. And it is obvious that we must find special and direct means of securing and enhancing the annual $155 billion of two-way trade with the United States. (THE TORONTO STAR, September 27, 1985; p. A21.)

Free trade can also serve as an industrial policy that will help bring about restructuring and adjustment in a domestic economy.

Mulroney felt that the CAFTA would bring about interprovincial free trade and a leaner and restructured manufacturing sector that could compete first with the U.S. and then in the global market. According to Osbaldeston, Canada would never be able to compete in the new international economy, unless it could first compete with the U.S. on a relatively level playing field. (Interview with Osbaldeston, 1992.) According to the MacDonald Commission's analysis which echoed that of Osbaldeston, the source of Canada's economic problems could be found in a manufacturing sector that produces at too high a cost and for too small a market. A free trade agreement would at once expand the market and remove the protective barriers that insulate inefficient firms from competition. This type of analysis may be sound economics, but not sound politics. The individuals who would lose their jobs would have to be given certain assurances from the federal and provincial governments that they would be helped in this restructuring process.

This new trade policy offered the prospect of securer access to the American market with some political risks. These risks could be overcome if it could be shown that the agreement would reduce protectionist harassment in Canada's dominant trade market. The significant partisan advantages that free trade offered the Conservative government also made the option of comprehensive negotiations attractive. Mulroney was determined to offer a clear alternative that was market-oriented and offered the provinces more input. This had broad appeal in western Canada and Quebec. With an administration already burdened by domestic scandal, free trade looked like a good policy on which to embark. He could divide the Liberals by

pointing to the MacDonald Commission's conclusion that this course was right for Canada. (Doern and Tomlin, 1992, pp. 33-34.)

2)Mulroney reveals federal government's plan to win ratification

As part of the federal government's strategy to win support, the Mulroney administration initiated a carefully scripted campaign in early February that involved circulating thousands of copies of a glossy, one-hundred page book on free trade. Government ministers were sent out on speaking tours to marshal support. In an effort to defuse claims that the CAFTA would put thousands of people out of work, Mulroney promised on a call-in radio show in Montreal that any deal would be accompanied by re-training programmes for displaced workers. (Campbell and Pal, 1991, p. 197.) This promise would later be broken as the CAFTA was implemented.

In March, the Prime Minister turned his attention to the U.S. because of the April 21 deadline imposed by Congress when it gave the President "fast-track" authority to negotiate a bilateral agreement with Canada. Mulroney visited Washington in March, but avoided a joint address to Congress with Reagan, because of the delicate political situation back home. Mulroney had little success in lobbying American legislators who were facing a November election and all the protectionist sentiment among their own constituents. The Prime Minister was aided in his efforts by the Canadian ambassador Allen Gottlieb and his staff who contacted many of the congressional committee members by telephone or in person (More detail on this aspect of the effort will be given in a later chapter on the political debate in the U.S.). Despite the "special relationship," Mulroney

acknowledged that any proposed talks would have to be initiated by the Americans. "It is between the Senate and President Reagan and his colleagues, and I think they'll carry the ball very well." (Clark, Austen, Lowther, and MacKenzie. April 28, 1986; pp. 10-11.)

The Senate vote on renewing President Reagan's "fast-track" authority was postponed until April 23rd. The vote was 10-10, with the Senate rules stating that a tie is the same as a win. Even though the rhetoric from the opposition was loud during this period, it had nothing to do with the U.S. relationship with Canada. The concerns were regional involving western senators who had consitutents with softwood lumber and timber interests. (Interview with Aske, 1993.)

The Canadian side moved quickly in response to the Senate's grant of authority to the President. By the first week of May, International Trade Minister Kelleher had named the heads of the fourteen member Advisory Groups on International Trade (SAGITs) to assist Reisman. The SAGITs, modeled after American counterparts, were to provide input from particular private sectors that would be affected by any free trade agreement. At the same time in the House of Commons, a 13-minute color video was presented by the Mulroney administration that concluded with the words: "every region of the country stands to gain" from the proposed CAFTA. But after viewing the government-produced propaganda, many opposition MPs reacted angrily. Steven Langdon, the NDP's chief trade critic, accused the government of spending tax dollars on "high-tech gimmickery" to promote its trade initiative. Other members of the opposition were enraged by the video display of a map of Canada that depicted Newfoundland in the same color as the U.S.

and omitted Prince Edward Island altogether. Newfoundland Liberal MP Brian's response to the government's presentation was "if you must publish propaganda, publish at least propaganda that shows the whole country." (Clark, May 12, 1986; p. 20.)

The first formal meeting between the two negotiating teams took place on June 17, following a preliminary meeting which had been held in Ottawa on the 21st of May. An odd occurrence took place a week before the negotiations were to begin. The American chief negotiator Murphy created quite a stir in Canada by telling reporters at a briefing in Washington that everything from Canadian social programs to cultural industries should be subject to negotiation if necessary. Protection of culture had been used by the Canadians as a means of justifying protectionism. Government-directed social programs such as medicare and regional development grants were regarded by some Americans as subsidies that unfairly generate competitive advantages for Canadian companies. (MacQueen, Clark, and McDonald. June 2, 1986; pp. 8-9.) The Mulroney administration had constantly been claiming just the opposite to its constituencies in Canada. Murphy later recanted some of his claims when he was made aware of Canadian sensitivities on such subjects.

For supporters of the CAFTA, 1986 was a difficult year. A number of things went wrong and there was a great deal of squabbling within the government. Kelleher was replaced by Pat Carney as international trade minister in the summer. Carney and Reisman did not get along and this caused further problems for the Canadian team as the negotiations progressed. Another problem was the softwood lumber dispute that

erupted in October. The ITC slapped a fifteen percent duty on imports of Canadian lumber. This duty threatened up to 5000 jobs in Western Canada. Carney vowed to "fight this all the way," while Mulroney promised "strong and vigorous action" on the tariff. The action was based on the American contention that provincial pricing, particularly with respect to stumpage, was artificially low due to the subsidy provided Canadian producers. (Janigan, Austen, MacKenzie, and Aikenhead. November 3, 1986; p. 18.) The U.S. position was greatly affected by the November elections that deprived the Republicans and President Reagan of their majority in the Senate. In the same month, the Economic Council of Canada released a study that claimed the proposed CAFTA would create 370,000 jobs in Canada, but its methodology was considered suspect. (Campbell and Pal, 1991, pp. 202-203.) These were not the only problems that the Mulroney administration was having as the provinces were asking for a bigger role as the debate which had at first mainly concerned the special interests, began to concern the country as a whole as we shall see in the next chapter.

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PART VI: THE POLITICAL STRUGGLE IN CANADA: HISTORY (1987 AND AFTER)

This chapter deals with the political struggle over the CAFTA from 1987 from on. It begins with an analysis of events leading up to the 1988 elections that resulted in the re-election of Brian Mulroney and made possible the passage of the CAFTA. It then deals with the election itself and the formal debate in the Parliament that ended in December 1988 with the passage of the Canadian-American Free Trade Agreement. In the final section, I shall briefly give an explanation of what all this meant to the future of Canada.

A)Early debate in the country

1)Mulroney responds to Americans

As the political debate raged on in Canada, two potentially crippling events occurred in Washington in early February 1987 that gave the Canadian opponents new hope. Speaking at a Washington trade conference, first of all, USTR Clayton Yeutter mentioned that he had spent his honeymoon at Niagra Falls and then went on to say: "I'm prepared to have America's culture on the table and take the risk of having it be damaged by Canadian influence after a free trade agreement...I hope Canada's prepared to run that risk, too...." (Hepburn, February 5, 1987; p. A21.) This enraged Canada's cultural nationalists. Secondly, U.S. Senator LLoyd Bentsen offered congressional lobbyists the opportunity to breakfast with him for the price of $10,000, which would go to his re-election campaign fund

The Canadian polity could interpret this as essentially auctioning himself off to the highest bidder; that bidder's interests might be affected by the trade talks. (Ibid.)

The Mulroney government was quick to challenge the Yeutter remark, but chose not to get involved in American domestic politics by commenting on the Bentsen scheme. Communications Minister Flora MacDonald had this to say in response to Ambassador Yeutter's remarks: "They're used to thinking of us as a northern extension of their thought and their practices, and when they find out we aren't, (they say) We thought we knew all about you, after all we honeymooned there." When asked if the Americans could really be as ignorant about Canada as they seem, MacDonald replied with a resounding, "yes." (THE TORONTO STAR, February 7, 1987; p. A3.) The Prime Minister chimed in later with his own comments on Yeutter, charging the USTR with a "stunning ignorance" of Canada. He described the Texan as "completely insensitive and totally unacceptable" to the Canadian people. (Greenway, February 11, 1987; p. E3.) Later, Yeutter apologized and the negotiations continued.

2)The politicians stake out their positions

A March 16 debate in the House of Commons between the three leaders of the main political parties would be echoed in the following years' national elections. Mulroney led off the "question period" by claiming that a free trade deal with the U.S. will ensure that the 21st century belongs to Canada by overcoming the "tragedy" of regional poverty. He implored rich Ontario to set aside its reservations and let the poorer provinces of Canada "get their kick at the can through

free trade." In his 45-minute speech aimed at opponents from the country's largest province, the Prime Minister stated: "We are in the process of building two Canadas, one which is rich and promising and one which is underdeveloped and underemployable...that is unacceptable." Mulroney also challenged the Liberals and the New Democrats to state in no uncertain terms their positions on the proposed CAFTA. He invited Turner to defend the "stupidity" of the Liberals' sometimes contradictory stances on free trade. He also challenged Broadbent and the New Democrats to free themselves from the advice of "apostles of reaction" within their labor constituency and from their Neo-Marxist rhetoric. (Cohn, March 17, 1987; pp. A1-A2.)

Liberal leader John Turner followed the Prime Minister with his own speech that accused the Tory leader of offering no specifics in his talk concerning the proposed free trade agreement. He charged that Canadians were still in the dark concerning the CAFTA and accused the government of hiding crucial details behind a wall of rhetoric and hyperbole. Turner lashed out at the Mulroney statement:

> After listening to the Prime Minister this morning and into this afternoon, Canadians are no wiser than we were two years ago. We wonder why we had this debate. We do not know what is negotiable. He mentioned nothing about our social programs, how they were to be interfaced. He did not make a defense of our agricultural marketing programs. He made absolutely no reference to the auto industry or to the Auto Pact. He talked in only vague terms about our unique cultural identity...During these negotiations, we have been held hostage by the Congress and the administration of the United States. On issue after issue, this country has been held hostage by the protectionist sentiment in the United States, and the very fact of these negotiations has had no influence on the conduct or the reaction of the Americans at all. (O'Donnell, March 17, 1987; p. A8.)

New Democrat leader Edward Broadbent responded to the Mulroney speech by claiming that the CAFTA could cause the "complete obliteration" of the automotive industry in Canada by the end of the century." Echoeing Turner, Broadbent a warned Mulroney that by continually refusing to give details of the negotiations, the Tory leader had "failed completely the aspirations of the people of Canada." He said that the Mulroney address was "a kind of high school-cum Rotary club rhetoric that is totally inappropriate." Broadbent pointed with great pride to the New Democratic government in Manitoba that had the lowest unemployment rate in the country. He also quoted Sir John A. Macdonald, Canada's first prime minister whom Broadbent called the greatest saying: "No great nation has ever risen when its policy was trade." He went on to say: "any of the great industrial nations in the history of the world talk about free trade only after they dominate the economic world." (MacKenzie, March 17, 1987; p. A8.)

3)Both sides hold "summits"

The Prime Minister was much more visible in the first half of 1987 than he had been in the last few months of 1986. In March he made seven major speeches to various groups. This was more than he had made in the previous six months. He wanted to project the image of a leader in charge as opposed to the one painted by his detractors who portrayed him as on the defensive. (Ruimy and Cohn, April 4, 1987; pp. B1, B4.) He wanted a positive image going into the early April summit with President Reagan, their third in three years.

The meeting went well before a backdrop of increasingly difficult

negotiations with the U.S. over the proposed CAFTA and the opposition's own "Maple Leaf Summit" which ran concurrently with the Reagan-Mulroney summit. Mulroney was trying to come to grips with the recent surge in the popularity of the New Democrats which the polls had recorded. He boldly claimed: "There are a few things that are certain in this life, but I'm going to give you three. First, the liberals are going down, secondly we're going up and, third the NDP are going out." (Ibid, p. B4.)

The Maple Leaf Summit sponsored by Hurtig's Council of Canadians' led to the formation of the Pro Canada Network (PCN). It became an anti-free trade umbrella for thirty national organizations and ten provincial coalitions. Its membership included the COC, the CLC, the National Action Committee on the Status of Women, and various other labor and grass-root organizations. At the center of this new organization was Maude Barlow, a feminist with strong links to the women's movement and the Trudeau government. She was highly visible in Canada as director of the city's (Ottawa-Carleton) office of equal opportunity for women. After losing a 1986 campaign for the national legislature, Barlow turned her attention toward helping lead the opposition to the proposed CAFTA. The PCN claimed a total membership of ten million and considered itself a popular counterweight to the BCNI. This organization was also created to keep its members better informed about the CAFTA. Under the banner of the PCN, a new generation of young Canadians with nationalist aspirations fought their battle against free trade and the business community. (Doern and

Tomlin, 1992, pp. 208-212.)

4)The opposition hardens its position

Meanwhile, John Halstead, a former Canadian ambassador to West Germany and NATO, had entered the fray. Halstead was worried that Canadians were not focusing on what was really at stake in the debate was the independence of the country. In his view, the recent trend towards more trade dependence on the U.S. and the proposed CAFTA, would only make Canada's problems worse. Furthermore, future Canadian governments would be under more pressure to harmonize their policies with the stronger U.S. in any bilateral arrangement. He pointed to several historical precedents that did not bode well for Canada's future as a sovereign country if they entered into a free trade agreement:

> Free trade areas ... tend either to evolve toward greater integration (customs union, common market, monetary union, economic union and finally political union), as a result of spill-over effects, or to disintegrate into unilateral national actions. In the evolutionary process toward greater integration, each new integration phase is seen as an answer to the problems of the immediately preceeding phase and as a desirable or necessary complement to the previous integration measures. This is particularly so if there is asymmetry between the partners, because integration is forced to go forward in order to avoid going backwards. There are no perfect examples of this dynamic in practice, because the combination of factors varies in each case. But there is the case of Hawaii which, as an independent kingdom, concluded a treaty of reciprocity with the United States in 1875 and which asked to be annexed to the United States in 1898. There is the case of Ireland, which went from a free trade arrangement with Britian to the European Free Trade Area to membership in the European Community. There is the case of Australia and New Zealand, which have gone on to other forms of economic integration after establishing their free trade area. And there is the case of the European Community, which has acknowledged the dynamic of integration in its stated purpose of eventual political union but which is in many ways less integrated than Canada and the United States, because the factor of asymmetry is diluted by the numbers involved and because there are political and cultural restraints at work that are noticeably weaker in North America. (Halstead, July 15, 1987; p. A15.)

The editorial board of THE TORONTO STAR, with the largest circulation of any daily newspaper in Canada, took it upon themselves to publish a six-day series of editorials beginning on Canada Day to argue strongly against the propsed CAFTA. This newspaper had more than twice as many articles devoted to the free trade debate as any other newspapers in Canada (more on this in the section on the campaign). The writers felt the July 1 holiday would be a good time to reflect on the ongoing negotiations with the U.S. Echoing many of the arguments that Halstead had earlier made, these nationalists spoke out for what they called our"uniqueness, our independence, and the vision of a society that is fundamentally different from the United States." (THE TORONTO STAR, July 1, 1987; p. A16.) They argued that if Canada entered into a free trade agreement with the U.S., the country would be hard-pressed to act differently from its southern neighbor on all major policy questions involving the two countries. They quoted former Finance Minister Mitchell Sharp to this effect: "A comprehensive free trade agreement would curtail to a substantial degree the freedom of action of the people of Canada through their governments, to make decisions, a freedom already constrained by the reality of our interdependence with other countries, particularly the United States." (Ibid.)

THE TORONTO STAR also noted that the U.S. already owned almost 30% of the entire non-financial economy of Canada and 55% of the manufacturing sector, and argued that the national economy had been stunted as a result. They cited statistics (without telling the reader the sources or the methodology used to generate them) to back up their

claims of a truncated Canadian economy. "General Motors employs 2.8 Canadians per million dollars of sales in its Canadian operation, but 6.7 persons per million dollars of sales worldwide. For IBM, the comparable figures are 3.8 in Canada and 6.5 in the U.S." (THE TORONTO STAR, July 3, 1987; p. A20.) However, these Canadian nationalists thought that the most important issue was the risk of their culture being swallowed up by the agreement. This time, quoting from VITAL LINKS, a federal government publication, they asserted:

> a)Just 24 per cent of the prime-time television watched by English-language viewers is Canadian in origin, the rest is virtually all American;
> b)just 22 per cent of the English-language books sold across the country are Canadian, the rest are primarily American;
> c)just 33 per cent of the magazines sold on newstands across the country are Canadian, the rest are largely American; and
> d)just 3 per cent of the screen time in our movie theatres is represented by Canadian feature films, the rest are overwhelmingly American. (THE TORONTO STAR, July 4, 1987; p. B2.)

Even though the Canadian government maintained during the debate and negotiations that culture was not on the bargaining table, the opposition could not believe that their culture would not be at risk. Widely published Canadian writer, John Ralston Saul, was one of the many people opponents quoted in this editorial series.

> To imagine, for example, the integration of the Canadian economy into the American, while the 'cultural industries' remained outside as a protected item, is to accept ourselves what we imposed on the Indians in the 19th century. We removed their way of life and reason for living, but left their 'culture' on the artificial stage of their reserves. We must not, therefore, fool ourselves into believing that culture has any meaning in a society which has abdicated its control over the day-to-day running of its affairs. (THE TORONTO STAR, July 4, 1987; p. B2.)

During the summer of 1987 a number of groups took public stands or released position papers (on the proposed agreement). One of the groups not previously mentioned, the Canadian Roman Catholic bishops, entered the fray by claiming that the CAFTA would threaten Canada's economic and political sovereignty. The seven-member commission advised against making a "leap of faith" on this issue without evaluating the implications for Canada's sovereignty, social programs, and culture. This was a reference to the "leap of faith" called for by former Finance Minister Donald MacDonald, whose 1985 commission helped initiate the proposed agreement. The bishops felt that those least forunate would bear the brunt of any adjustments required. They said that as Christians, they could not stand idly by:

> Indeed, many of the people who make up our Christian communities - factory workers, small farmers, fisherpeople, business people, working women, people on fixed incomes, native peoples, service workers and others - may be directly affected by the implications of a free trade accord. Like the early church, we must find ways of listening to the concerns of our members and supporting them. (McTeer, June 16, 1987; pp. A1 and A4.)

The COC, CLC, PCN, CAW and others in the opposition movement were caught off-guard when the Canadian government announced on a rainy October 4 afternoon that the previous day an agreement had been reached with their American counterparts. Several things happened in the next two months that would challenge the Tory government and eventually force it to call national elections.

A two full-pages advertisement appeared in a number of newspapers across Canada on October 21. The headline read: "Canada does not belong to these two men." (i.e. Mulroney and Reagan) The ad proclaimed that Canada had given away a number of things including:

a)its sovereignty,

b)its right to control its energy supply,

c)its right to control foreign investment,

d)its right to design cultural polices without concern for U.S. reaction,

e)its ability to design national economic strategies,

f)its ability to formulate independent trade policies with other countries, and

g)its right to determine an independent auto strategy.

Amazingly enough, according to the ad, the U.S. gave up nothing in the CAFTA. Their response would be an election to determine if the Mulroney government has the mandate to negotiate such an agreement which they felt would change the country forever. The groups listed opposing the CAFTA included the COC and others mentioned above along with a number of others such as the National Farmers Union and "millions of average Canadians." (THE TORONTO STAR, October 21, 1987; pp. A20-A21.)

5)Turner, Broadbent, and Peterson speak out!

On October 26, Liberal leader John Turner joined with his NDP counterpart in pledging to cancel the agreement. Historically, the Liberals had been the party of the Canadian business community and their former Finance Minister chaired the royal commission that lent creditability to the proposed free trade agreement. However, the Liberals were badly divided on the CAFTA and this fact eventually took its toll on the party. Turner, himself, had preferred general trade liberalizations schemes in the past and had been a successful

businessman who had had a number of positive contacts with American firms. Previously, he had made a number of ill-defined threats against the proposed agreement, but he had never said he would cancel it outright. Now adamant in his opposition, he proclaimed that:

> From the outset of these negotiations, the Government of Canada has deliberately kept Canadians in the dark, deliberately kept the facts from Parliament, and deliberately refused to give us the parameters of the authority of the negotiating team. That has been the Government's strategy from the beginning and continues to be its strategy. It is a cynical, manipulative and misleading tactic. There is one thing wrong with it; Canadians are not stupid, Canadians will not be fooled, and Canadians will not buy this trade deal...The Prime Minister's trade agreement will mean deep changes for this country. Never was that option discussed during the last election campaign. The Prime Minister has no mandate to trade away our sovereignty. I will fight that agreement. I will fight it to the point of running the next election on it. You have my word on it. That is a promise... We did not negotiate the deal, we are not bound by the deal, we will not live with this deal, and if the deal and the final contract reflects the principles and general terms of agreement we have seen, we are going to tear it up. (HOUSE OF COMMONS DEBATES, October 26, 1987; pp. 10356-10359.)

Following Turner's spirited outcry, Broadbent joined in denouncing the proposed agreement with some lively rhetoric of his own. Not to be outdone by his Liberal counterpart, he quoted from a speech Mulroney made shortly after he formed the Government on November 7, 1984. "...we have only been in power for two months, but I can tell you this: Give us 20 years, and it is coming, and you will not recognize this country." Broadbent next quoted USTR Clayton Yeutter, who had said the week before at a Washington press conference that "the Canadians don't understand what they have signed. In 20 years, they will be sucked into the U.S. economy." Finally he stated his opposition in strident terms:

> I can only say, Mr. Speaker, that I wish the Prime Minister, when he made his comments, had told the people then that he had this 20-year scenario in mind. I can tell the Prime Minister that the New Democratic Party and Canadians from coast-to-coast do not accept the premise of Mr. Yeutter's conclusion. They do not accept these trade talks. They do not accept the Tory view of Canada that the only way of becoming a confident Canadian is to become an American. We believe that confident Canadians will stand up in this historic debate to fight to preserve an independent Canada, whatever the Tories may wish to do...We have reached a turning point in our history. As an independent country, we must answer the most important question we ever had to deal with in the latter half of the twentieth century. The Trade Agreement has raised a profound concern from coast-to-coast about the future of our country...As a Canadian, I firmly believe that our country's survival is at stake. Canada's survival as a sovereign and independent nation is threatened. It is as serious as that...I simply want to say that the Canada we are now defending is a different Canada from the Canada of 1911 when we last had this great national debate. We have improved qualitatively. We have matured. We have a great nation from coast-to-coast made up of many different kinds of people, a nation different from that of 1911. We have traditions that have grown and are different from those of that period. We in this Party are saying that we are not prepared to sacrifice these traditions, this Canadian heritage, to become part of one simple, global North America. That is our commitment. We want to remain an independent Canada within North America. (HOUSE OF COMMONS DEBATES, October 26, 1987; pp, 10361-10365.)

CAFTA in early December, Ontario Premier David Peterson threatened to take the federal government to court if the CAFTA attempted to change policies that came under the province's exclusive authority. Relying on a 1937 case (the so-called Labor Conventions case) that set forth federal-provincial relations, Peterson put another stumbling block in the path of the Mulroney administration. In 1937, the British Privy Council (then Canada's highest court and forerunner to the current Supreme Court) had ruled that the federal government's power to make treaties did not allow it to unilaterally strike bargains on matters that have traditionally been under provincial control. A section in the CAFTA commits the federal government to take "all necessary steps" to implement the deal, even in areas under the jurisdiction of

provincial and local government. (Harrington, December 15, 1987; pp. A1 and A9.)

6)No middle ground

The political debate over free trade produced competing values and alleged facts and polarized alternative visions of what Canada should be. It was a battle in which there was no middle ground. The pro-free traders portrayed themselves as outward looking, confident, and competitive while they attempted to brand their opponents as inward looking, protectionist, and unsure of the future. On the other hand, the anti-free traders accused their opponents of selling out their country and trying to make Canada the fifty-first state of the U.S. The opposition asserted that they wanted liberalized trade, but thought that the GATT path was the correct one rather than the North American one that portended a fortress against the world. A siege mentality gripped both sides of the debate. (Doern and Tomlin, 1992, pp. 222-223.) I will mention a couple of examples that demonstrate the level of emotion exhibited in the debate. On March 7, 1988, some 350 delegates to a conference sponsored by the Saskatchewan Chamber of Commerce were harassed as they arrived for the meeing by some three hundred protestors who chanted "free trade is treason." One of the speakers John Crispo, was denouced as a "traitor" as he entered the hotel. Crispo told the press after this encounter: "if these people that are going to run Canada, forget about tolerance." (THE TORONTO STAR, March 8, 1988; p. A9.)

Another emotional encounter between opposing sides in the debate occurred in the House of Commons in early July, 1988. Trade Minister

John Crosbie lashed out at opposition leaders for their "bizarre exaggerations." Crosbie dismissed opposition questions about the proposed trade pact's effect on blood banks and chicken farms as groundless. He then challenged Liberal critic, Sheila Copps to read the agreement if she did not believe him. Copps, who had had a running feud with Crosbie for a number of years, defiantly crossed the floor that separates the government from the opposition and tried to look at Crosbie's briefing book. Associate Defense Minister Paul Dick called Copps a "stupid witch." Later outside Parliament, Crosbie got into a shouting match with Copps and NDP trade critic Steven Langdon. Crosbie called Copps a "female Goebbels" for spreading false propaganda about the free trade agreement. (Canadian Press, taken from THE TORONTO STAR; July 7, 1988; p. A9.) Literally hundreds of confrontations like this occurred across Canada during the highly emotional and politicized debate.

The mid-June rallies organized by the PCN in cities from Victoria to St. Johns and at seven border crossings saw thousands of protestors denounce the free trade agreement and demand national elections so that the populace could vote on the issue. Canadians lit candles, blocked bridges, paraded in cars, held picnics, and even staged "teach-ins" against the CAFTA. In Ottawa, protestors stuffed cardboard boxes with mock ballots rejecting "the sellout of Canada." At Edmonton, COC founder Mel Hurtig said that the proposed CAFTA was not about trade, but "about economic integration between Canada and the United States." (THE TORONTO STAR, June 13, 1988; pp. A1 and A12.) The protestors would soon have their wishes granted by the government

which called fall elections across the country.

B)The Formal Debate

In this section on the formal debate, references will be limited, with a few exceptions, to the House of Commons.

1)C-130 moves Canada closer to the U.S.

The enabling legislation was introduced as Bill C-130 in the House of Commons on May 24, 1988. During the next few months the outnumbered Liberals and New Democrats used procedural delaying tactics in a bid to kill the bill or at least force an election. During the second-reading debate mentioned in the last chapter, Liberal leader Turner claimed that if the bill were passed, and he was subsequently elected prime minister, he would tear it up and not be bound by it. In committee, the opposition parties proposed over fifty amendments, many of which would have changed the agreement substantially through the addition of new conditions and institutional arrangement. A number sought to clarify the exemptions for social and regional development programs. (Campbell and Pal, 1991, p. 212.)

On July 26, the Tory government, bowing to opposition pressure, decided to include a specific ban on water exports in the enabling legislation. Although Trade Minister Crosbie had argued for weeks that no amendment was necessary because of an earlier 1987 policy that banned large-scale water exports, he softened his stand by accepting an amendment that provided "nothing in this act or the agreement except 401, applies to water." (Cohn, July 27, 1988; pp. A1 and A8.) The only other major amendment to the proposed legislation added in

committee removed the clause which stated that Bill C-130 overrode any other federal legislation that was inconsistent with it. The bill was passed on August 4, 1988 and was sent back for the third and final reading in the Commons. (Campbell and Pal, 1991, p. 212.)

Bill C-130 would amend twenty-seven existing Canadian laws to conform with the CAFTA. The committee of Commons which had dealt with the bill issued its report to the House of Commons on August 10th. Debate on that report proceeded along partisan lines as the Liberals and New Democrats attempted a number of stalling procedural tactics. Deputy Tory House leader Doug Lewis asked the opposition how much time they needed for debate. Liberal House leader Herb Gray and NDP House leader Nelson Riis called for 150 days of debate on the committee report and a further 200 days on the bill itself. Needless to say, the Conservatives did not go along with these suggestions and limited debate to five days. The following filibuster included discussions of making ice hockey the national sport in Canada and the role that the Magna Carta played in Canadian constitutional development. The Mulroney administration wanted speedy passage to force a confrontation with the Liberal-dominated Senate, which has threatened to delay the proposed legislation and conduct country-wide public hearings. (Cohn, August 16, 1987; pp. A1 and A2.)

The large Tory majorities in the Commons defeated seventy-seven amendments proposed by opposition forces by a vote of 142-48. Fifty-nine of the seventy-seven amendments were put forth by the Liberals and focused on such matters of foreign investment, financial services, additional protection for cultural industries, agricultural

services, additional protection for cultural industries, agricultural programs, and regional development subsidies. Liberal trade spokesman Lloyd Axworthy, claimed that Canada would be better off if it solved disputes through the GATT instead of through a bilateral agreement with the United States. Trade Minister Crosbie responded correctly that there was nothing in the CAFTA that would prevent Canada from using the GATT mechanism if it chose to. The NDP introduced the remaining eighteen amendments that favored worker-adjustment programs, required that Canada be energy self-sufficient before it exported any surpluses, and mandated parliamentary control over cabinet decisions on new boards and regulations related to the CAFTA. NDP trade critic Steven Langdon, said that although the Party adamantly opposed the free trade deal, they wanted it strengthened just in case it should become law. (Kennedy, August 24, 1988; p. A3.)

The final day's debate on the CAFTA was highlighted by speeches by the three leaders. The Prime Minister deliberately spoke in a low-key manner telling fellow MPs that "free trade is the lifeline of Canada's prosperity...it is an idea that is older than the Confederation itself, whose time has finally come." Mulroney's hour-long speech was the centerpiece of the last day of debate. (Dowling, August 31, 1987; pp. A1-A2.) In tone and manner the incumbent leader's address contrasted sharply with the passionate and emotion-filled oratory of the opposition. Turner again demanded that the prime minister call an election on the subject of free trade and eloquently delineated the differences between Canadians and Americans.

> And Canadians, better than any other nation, appreciate unity in diversity. That is why our country is officially and firmly bilingual and multicultural. Instead of homogenizing our citizens, our regions and our cultures, we cherish our differences because they make us unique, rich, proud, tolerant, and responsible...The United States is certainly the most powerful democracy in the world, but it is not the only democracy. It is not the only country that values its independence and its freedoms and its ability to make its own choices. So do we. We have chosen to do so in a different way. They may not see it. They may not recognize it. But we are different. The Americans were born of revolution. We were born of the joining of the British and French traditions. Their Constitution calls for life, liberty and the pursuit of happiness. The British North American Act called for peace, order and good government. The United States is a categorical country. Stephen Decatur perhaps put it best once when he said: "My country, may it always be right, but right or wrong, my country." For an American, "you are either with us or against us." Choices are clear-cut. We Canadians instinctively seek a consensus and a compromise. (HOUSE OF COMMONS DEBATES, August 30, 1988; p. 19059.)

Broadbent, who followed Turner, said that the deal epitomizes the "complete and utter" dominance of the marketplace in Mulroney's Tory philosophy. The NDP leader blamed Mulroney's tenure as president of the Iron Ore Company of Canada for his transformation. "The prime minister's experience as a former branch plant manager...has so internalized the values of the marketplace that unlike Sir John Macdonald and John Diefenbaker, he sees no possible contradiction between the national good and the continental good." (Dowling, August 31, 1988; p. A2.) He also encouraged a grass-roots approach to solving Canada's economic problems:

> Strengthening Canada's economy means building from the inside out, with a comprehensive approach to encourage diversification, innovation, and self-direction at the community level; industrial and technological excellence at the national level; and global co-operation at the international level. (HOUSE OF COMMONS DEBATES, August 30, 1988; p. 19073.)

The eloquence of the CAFTA opponents could not overcome the large

Tory majority in the House of Commons. With flags waving and the words of the national anthem ringing in the Chamber, the Commons gave approval to the landmark free trade agreement with the United States. The 177-64 vote was preceded by one of the rowdiest demonstrations ever seen by Canadian parliamentary observers. The voting was interrupted when about thirty anti-free trade protesters chanting "we want an election," were forcibly ejected from the gallery by the parliamentary security police. After the vote, Mulroney told the reporters in the hall of the Commons that it was an "historic and very important day with positive implications for Canada." The Liberal-dominated Senate had said that it would stall the bill until an election had settled the issue. Without Senate approval, the bill could not become law and an election could return the process back to the beginning. (Dowling, September 1, 1988; pp. A1-A2.)

On September 15, Liberal senators abstained from a vote on the CAFTA and allowed the Conservative minority to approve it in principle by a 19-0 vote. This move was designed to allow the free trade bill to go to committee for study, but did not imply abandonment of a pledge to Turner to block passage until national elections were called. Royce Frith, the deputy Liberal leader in the upper house said "our commitment to Mr. Turner was to postpone passage of the bill, not to kill it." Senate Tory leader Lowell Murray blasted the Liberals for their strategy and said that it would come back to haunt them. He was highly critical of their use of the appointed Senate to thwart the will of an elected Commons' majority. In his words, voters would have

a choice "between the bridge builders on the one hand and John the ripper on the other." (O'Neill, September 16, 1988; p. A4.)

C)The 1988 National Election Campaign

1)Opposition to the CAFTA is Liberals' issue

John Turner's moves in the summer of 1988 would eventually force the Mulroney administration to call for an election on October 1st. Fearing that he might be outmanuevered in his opposition to the CAFTA by the NDP, Turner announced that he had asked the Liberal majority in the Senate to block the trade bill until the general election (more in the formal debate section). He knew that nothing he or the NDP could do in the House of Commons could prevent the bill from passing due to the huge majority held by the Progressive Conservatives. However, the Liberals had a majority in the Senate, and the bill could not become law until its passage there. Turner insisted that the use of the unelected senators was entirely proper and democratic, since the CAFTA had not been part of the Tory campaign in the 1984 national elections. The Senate agreed and said that it would not consider passage until elections were held. (Campbell and Pal, 1991, pp. 212-213.)

On August 10, after it became apparent that the Senate would go along with Turner's request, the Liberal leader pointed out the reasons for requesting an election in a speech in the House. Addressing Deputy Prime Minister Don Mazankowski, he said:

> In 1983, the Prime Minister of Canada, in a campaign for the leadership of his Party, said he was against free trade. In 1984, the Prime Minister of Canada did not say a word about free trade during a general election. In 1985 the Prime Minister of Canada began bilateral negotiations with the President of the United States on free trade. In 1986, the Prime Minister of Canada said he would not accept a deal unless there was guaranteed access to the American market. In 1987, the Prime Minister of Canada said the U.S. protectionist trade laws should not apply to Canada. It is now 1988. We have no guaranteed access to the American market under the trade deal, and now new American protectionist trade laws apply to Canada. I ask the Deputy Prime Minster of Canada if it is not time to let the people decide. (HOUSE OF COMMONS DEBATES, August 10, 1988)

Brian Mulroney announced on October 1, 1988, that national elections would be held five weeks later on November 21. The Tory strategy would be to avoid issues and keep the incumbent away from the press. The theme of the campaign would be, "The party and leader capable of managing change." Krause noted that this theme had several advantages. First of all, it focussed the electorate's attention on the accomplishments of the Tories during the previous four years. These included the reduction in the budget deficit, a growing economy, and improved federal-provincial relations. Second, the theme was future-oriented. Issues such as Meech Lake, the CAFTA, and a national day-care program could be used to portray a party with a strong leader and the vision to meet Canada's international challenges. (Krause, 1990, in Frizzell, Pammet, and Westell; pp. 15-16.)

The Liberal strategy would be to focus almost entirely on the free trade issue. With polls indicating that the public favored elections by a 2:1 margin, Turner had breathed new life into a dying issue and dramatized its importance to the country. He had forced the government's hand. As the campaign unfolded, he was able to revive the Liberals' appeal to one of its two traditional constituencies, the

coalition of workers, women, disadvantaged, elderly, and ethnics who looked to the government for assistance. Of course with his anti-CAFTA stand, he alienated the other traditional constituency, the business community. In doing so, however Turner was attempting to wrest away from the NDP the anti-business and social democratic center of the Canadian electorate. This broad mainstream of working and middle class voters had general concerns about the ability of Canada to maintain its social programs under a free trade agreement. They felt threatened by further Americanization and had moral concerns about Canada's role on the world stage as mediator of conflicts and provider of aid to the underdeveloped countries of the world. (Clarkson, 1990; in Frizzell, Pammet, and Westell; p. 34.)

The Liberal alternative to the proposed CAFTA had been bouncing around in the media since its December 1987 release. In a document entitled REACHING OUT: A LIBERAL ALTERNATIVE TO THE CANADA-U.S. TRADE AGREEMENT, the party's national caucus put a heavy emphasis on the multilateral GATT approach as opposed to the bilateral negotiations with the U.S. In this forty-seven page paper, the Liberals devoted only the last four and a half pages to the party's alternative to the CAFTA. They stress four ways in which Canada can maximize its economic future through global negotiations. These four ways include:

a)Canada must have freer trade between the provinces before any real gains from international trade can be realized. The First Ministers Conference should be used as a means of negotiating the reduction of barriers to interprovincial trade. This would in turn encourage production efficiencies and assist the development of production facilities capable of supplying global markets.

b)Canada should increase its scientific and technological capacity in order to remain competitive in this new global order. It must significantly increase spending on R&D from its current level to about 1.4% of GDP, more in line with other major industrialized nations. Greater cooperation on the part of labor, business, academia, and governmental communities is necessary for such an endeavor.

c)Canada should improve its performance on the education and the training front. One of the first priorities would be to assist those 4.5 million Canadians recently identified as functionally illiterate. Another priority would be to improve the quality, diversity, and specialized training in order to ensure that Canada has the expertise necessary to fully complement increased R&D. Yet another priority would be the provision of retraining those for workers whose skills are obsolete in this new economy.

d)Vital reform in the decision-making and regulatory system on trade is in order and would proceed along the lines of an omnibus trade bill like the one in the American Congress. It would outline Canada's trade objectives. This would have the benefits of streamlining the process for the private sector and would clearly communicate trade policy to the Canadian public. (National Liberal Caucus, 1987, pp. 43-47.)

2)NDP's hope with Broadbent, not issues

The NDP accepted the conventional wisdom that the badly-divided Liberals were a party in permanent decline. Broadbent said publicly on a number of occasions that a two-party system (without the Libeals) would be a good thing for Canada. The NDP based their campaign strategy mainly on the integrity and leadership ability of their

popular leader, who at times in 1987 and 1988 held a lead over Turner and Mulroney in a number of different polls. They did so despite the fact that the result was the estrangment of some of the traditional party cadres in the labor movement. (Interview with Bleyer, 1993.) In addition, the NDP attempted to build a base in Quebec. They invested significant resources and time in a province that had never elected a member of their party to Parliament. While at times in the recent past, Quebecers had been somewhat sympathetic to their socialistic aims, they were increasingly pro-market in their economic outlook, which resulted in a more conservative political orientation. Free trade did not seem that threatening to the majority in the second-largest province and partly for this reason, the NDP chose to play down the free trade issue. (Doern and Tomlin, 1992, pp. 233-235.)

The New Democratic Party's approach to the CAFTA was instinctively negative as evidenced by the earlier comments by its national leader, Edward Broadbent. Since the early 1960s, the NDP had called for increased controls on foreign investment, an aggressive industrial policy, and nationalistic energy policies. In the 1988 general election, however, the NDP had seen the anti-free trade issue being wrestled away from them by the aggressive posturing of Turner.

The NDP alternative to the proposed CAFTA was based on two main themes. First, Broadbent thought that the U.S. protectionist threat was greatly exaggerated and that it would not adversely affect Canadian exports. Secondly, he wanted Canada to base its trade strategy on pursuing limited trade agreements in selected areas of the economy, while letting a dispute-settlement mechanism between the

two countries to identify and head off problems. However, Broadbent acknowledged that the Americans had rebuffed these sectoral agreements during the last two years of the Trudeau administration. (Cohn, January 7, 1988; p. A8.) The rest of their alternative was a more familiar restatement of their basic economic agenda. There was very little substantive difference between their alternative and that of Liberals, who had clearly established themselves as the main opponent of the CAFTA. The general strategy of the NDP's campaign was to leave out inflammatory rhetoric that called for the nationalization of numerous sectors of the Canadian economy and attempt to move to the center in the voters' eyes. Although the NDP did not abandon the essentially interventionist nature of its economic agenda favored by its core supporters, the party was determined to demonstrate its competence to govern. As a result, its trade policy was not without substance, but Turner's much stronger stand on the CAFTA during the campaign took away an issue that could have helped them in the general election. (Doern and Tomlin, 1992, pp. 237-238.)

As the campaign began on October 1 with the dissolving of Parliament, the Conservatives led the Liberals and the New Democrats by a 40 to 30 to 25 per cent split with around 5% undecided. The first two weeks were rather uneventful as the candidates made their various stump speeches across the country. The third week saw the Liberals hit rock-bottom. On October 17, Turner announced the party's policy on abortion. This was done unilaterally without the general consultation of the party faithful. The issue had been a divisive one, and a number of Liberal candidates were deeply offended by Turner's heavy handed

actions. Not all of the political parties wanted this to be an issue and the Mulroney administration announced in September that any legislation would not be taken up until after the election. Two days later on the 19, the Canadian Broadcasting Corporation's (CBC) show entitled "The National" reported that senior members in the Liberal party had tried to get Turner to resign and wanted to draft another candidate to run the national campaign. (Johnston, Blais, Brady, and Crete; 1992, pp. 23-27.) They were unsuccessful, but the possibility of the Liberals running third in the election was being considered on the eve of the nationally-televised debates of October 25 and 26.

3)Turner moves forward in debates

The first three-hour debate was in French, which most observers feel favored the Prime Minister, a Quebec native. However, Turner was quite credible in his performance while Broadbent appeared out of touch with the issues and the language. The opinions split to some degree along party lines, but most observers felt that Turner and Mulroney were the only contenders with no clear winner in the first debate. The next debate in English was quite different as Mulroney and Turner shouted at each other in angry tones each challenging the patriotism of the other because of his position on the CAFTA. The following is an account which boosted Turner's ratings across the country and got him back into the race with less than a month to go before the general election.

Turner: I happen to believe you sold us out as a country...
Mulroney: You do not have a monopoly on patriotism and I resent...your implication that only you are a Canadian. I want to tell you that I come from a Canadian family and I love Canada, and that's why I did it, to promote propsperity and don't you impugn my motives.
Turner: Once any country yields its economic levers, once a country yields its energy...
Mulroney: We have not done it.
Turner: Once a country yields its agriculture...
Mulroney: Wrong again
Turner: Once a country yields itself to a subsidy war with the United States...
Mulroney: Wrong again
Turner: The political ability of this country to sustain the political influence of the United States, to remain as an independent nation - that is lost forever and that is the issue of the election.
Mulroney: ... Let me tell you something, sir. This country is only about 120 years old, but my own father 55 years ago went himself as a laborer with hundreds of other Canadians, with their own hands in northeastern Quebec they built a little town, schools and churches, and they in their own way were nation building. In the same way that the waves of immigrants from the Ukraine and Eastern Europe rolled back the Prairies and in their own way, in their own time, they were nation building because they loved Canada. I today, sir, as a Canadian, believe genuinely in what I am doing. I believe it is right for Canada.
Turner: I admire your father (who) worked for what he did. My grandfather moved into British Columbia. ... We are just as Canadian as you are Mr. Mulroney. ... You mentioned 120 years of history. We built country east and west and north. We built on an infrastructure that deliberately resisted the continental pressure of the United States. ... With one signature of a pen, you've reversed that, thrown us into the north-south influence of the United States and will reduce us, I am sure to a colony of the United States because when the economic levers go, the political independence is sure to follow.
Mulroney: Mr. Turner, the document is cancellable on six month's notice. Be serious, Be serious!
Turner: Cancellable? You are talking about our relationship with the United States
Mulroney: A commerical document that is cancellable on six month's notice
Turner: Commercial document? That document relates to a treaty. It relates to every facet of our lives. It is far more important to us than it is to the United States.
Moderator: Gentlemen, we will move to the next question from (reporter) Doug Small
Doug Small: I would be quite happy just to let them go right on rolling on that if they had anything more to say
Moderator: I think the issue has been exhausted. (Maser, 1990. Taken from Frizzell, Pammet, and Westell; pp. 62-63.)

In this heated exchange, Turner's hopes for becoming prime minister were given a shot in the arm. Polls around the country made him the decided winner. Two days after the debate, a CTV (Canadian Television) poll showed that 59% of elgible voters thought Turner had won as opposed to 16% for Mulroney and 11% for Broadbent. Another poll done in late October by Angus Reid revealed that 36% of voters were strongly opposed to the CAFTA, while 18% were moderately opposed to the agreement. The release of the polls showed Turner rising dramatically to a dead-heat with Mulroney. There followed a drop in the Canadian dollar and jitters in the stock markets, which market analysts attributed to fears of the CAFTA being abrogated by a Turner administration. (Ibid, p. 64.)

4)Mulroney fights back to victory

The counter-attack by the Prime Minister began within a week of the debates. As early as October 31, Mulroney's speeches focused on the credibility of Turner. The sagging Conservative fortunes seemed to turn around as Emmett Hall, the former justice of the Canadian Supreme Court whose Royal Commission on health care in the 1960s had paved the way for universal health care, said that it would not be affected by the proposed CAFTA. He stated publicly after studying the deal, "If I had found that there was in this free trade agreement provisions which would damage medicare, I would have opposed this agreement because medicare is one of the things I hold dearest in life today." When asked if the Liberals and NDP were deliberately lying about the deal, Hall replied: "No, I think that they are doing it to get votes, to frighten the people into voting for them." (Maser, 1990, in Frizzell,

Pammet, and Westell; p. 68.)

The last three weeks of the campaign saw a barrage of advertising from both the pro and anti-free forces. The Conservatives had more money and were better prepared to make their final appeals than the two opposing parties. The campaign became extremely negative as Mulroney and his cronies viciously attacked Turner. Finance Minister Michael Wilson called the Liberal leader a liar on national television, while Simon Reisman accused Turner of being a "traitor" for his criticisms of the proposed CAFTA (THE TORONTO STAR, November 16, 1987; p. A1.). Trade Minister Crosbie captured headlines with a loud shouting match with students opposed to the CAFTA. Turner kept hammering home his theme that free trade would undermine social programs, increase unemployment, and would eventually cost Canada its sovereignty. However his numbers went down in the polls as his accusations began to sound shrill and desperate (See Figure 1 in the appendix).

When the dust had settled, it appeared that the negative campaigning worked for the Tories as they retained their parliamentary majority. The five-day moving average poll reading for the last day of the campaign gave the Conservatives about 45% and the Liberals 35%. This would have resulted in a 61% share in the House of Commons based on the plurality system. On election day, the Tories and Liberals won, respectively, 43% and 32% of the popular vote and 57% and 28% of the seats. The NDP finished third still locked in at 20% of the popular vote and 15% of the seats. (Johnston, Blais, Brady, and Crete; 1992, pp. 29-30.) The seat count in the Commons was the Tories 169, Liberals

83, and NDP 43. One of the most surprising aspects of the election was that Conservatives increased their support in Quebec from 58 seats (49.6% of the popular vote) to 63 (53%) and held their own in supposedly anti-free trade Ontario where they had won 46 seats in the House of Commons as opposed to the Liberals who won 43. (Campbell and Pal, 1991, pp. 214-215.)

5)What did the election mean?

A couple of studies done on the 1988 election indicate the importance of free trade. Pammet's analysis points out that it was mentioned as the "most important issue" by 82% of the electorate. Only 5% of the survey's respondents stated there were no issues, substantially lower than the 25 to 30 percent that normally cannot identify an issue (See Table 2 in the Appendix). Free trade was not only an unusually dominant issue, it was an unusually specific one. In cases like inflation or unemployment all parties agree that a problem exists and should be rectified. Vaguely defined policies can be proposed to cope with it. In this case the policy was sharply defined and one had to be either for or against it. (Pammet, 1990, taken from Frizzell, Pammett, and Westell; pp. 123-124.)

Richard Johnson and his colleagues acknowledge the salience of the free trade issue, but ultimately come to some different conclusions. They indicate that the most important finding of their study concerned the way questions were worded by the major pollsters. Many people reacted favorably to "Canada's free trade agreement" but negatively to "Mulroney's free trade agreement." (See Figure 1 in the Appendix) Turner's accusation that the Prime Minister had sold out the country

obviously had some short term impact, but not enought to make a difference in the final analysis. The Environics poll on the generic issue of free trade show an 11% margin in favor of free trade in mid-summer 1988, while another mid-summer poll on the specific issue of the CAFTA indicated only a 2% margin opposed to the agreement itself, in which eventually the free trade opponents gained an upper hand of just over 50%, but their vote was split (See Figures 2 and 3 in the Appendix). The Gallup pollsters saw about a 10% gap between those who thought they would be "better off" and those who thought they would be "worse off" after a free trade agreement went into effect. (See figure 4 in the Appendix). (Johnson, Blais, Brady, and Crete. 1992, pp. 141-167.)

Finally, the Mulroney government's strategy was to avoid specific public debate on the CAFTA and solidify their core by appealing to their ideological concerns with respect to the role of the government in the economy. Today there is an on-going debate in Canada concerning the effect of CAFTA, but it is far less visible than the CAFTA debate of the 1985 to 1988 period. The legacy of Brian Mulroney will be forever linked to the free trade agreement. As the Canadian Prime Minister announced his resignation in late February 1993, with his public approval ratings hovering about where Richard Nixon's were on his premature retirement from politics, his Tory partisans still rated the CAFTA as his most important accomplishment by more than a 2 to 1 margin (See Figure 5 in the Appendix). (Allen; March 22, 1993. Taken from MACLEANS, pp. 18-19.)

D)The outcome and aftermath

The opposition to the CAFTA got their wish as the Prime Minister called an election. However, the results were not what they had hoped for as Mulroney was re-elected. The Commons reconvened on December 12 to take up the trade bill. Governor General Jeanne Sauve' said "The people have spoken in a general election three weeks ago." (Kennedy, December 13, 1988; pp. A1-A2.) The current session would be extended past its December 21 dealine until the bill was passed by both chambers. At 1:50 a.m. on Christmas Eve, the House of Commons gave final approval to the Conservatives' free trade initiative by a 141-111 vote. The Senate passed Bill C-130 on the last day of the year by a 24-0 count with large numbers not present or abstaining on the controversial legislation. On January 1, 1989, the CAFTA went into effect. The Great Debate was now over in Canada.

In conclusion, it must be said that each side in the political debate was deeply devoted to its cause. As Doern and Tomlin have said the battle was really a fight between "two nationalist visions." The first which gripped the anti-free trade forces was rooted in a desire to defend the power of the Canadian state which they felt was crucial for the country's unity and independence. The other was rooted in a desire to increase the power of the marketplace which would produce a new entrepreneurial confidence that would enable Canada to compete in the new global economy. The anti-free trade nationalists had always dismissed the second group as continentalists (who believed that Canada should be integrated with the U.S.). The pro-free traders, on the other hand saw themselves as being more entrepreneurial and

patriotic. (Doern and Tomlin, 1992, pp. 205-225.) The pro side felt that their arguments were based on quantitative and empirical evidence and the opposition's were based on a kind of negative emotionalism with its roots in the past. The free trade coalition ultimately won this battle. However other battles like the NAFTA and the preservation of a Canada that included Quebec lay ahead.

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APPENDIX

TABLE 1

Voting Intentions by Party and Particular Poll

	Sample Size	PC	LIB	NDP	Other	Undecided
PUBLICATION DATE						
Oct. 3 Gallup	1,061	43	33	22	2	22
Oct. 5 Reid	1,512	45	26	27	2	25
Oct. 10 Gallup	1,017	41	32	46	1	13
Oct. 11 Environics	1,515	42	25	29	4	10
Oct. 14 CTV	1,100	46	27	26	1	18
Oct. 16 CBC	2,467	42	25	29	4	10
Oct. 17 Gallup	1,027	39	29	28	4	10
Oct. 21 CTV	1,100	43	25	30	2	10
Oct. 24 Gallup	1,034	40	28	29	3	19
Oct. 29 Reid	1,502	35	28	35	2	23
Oct. 29 CTV	1,100	35	39	23	3	19
Oct. 31 Gallup	1,034	38	32	27	3	11
Nov.1 Environics	1,538	31	37	26	6	13
Nov.2 Goldfarb	1,000	34	40	24	2	28
Nov. 4 CTV	1,101	40	37	20	3	16
Nov. 7 Gallup	1,041	31	43	22	4	10
Nov. 9 Environics	1,275	35	37	24	4	9
Nov. 10 Reid	1,501	39	35	24	2	22
Nov. 10 CBC	2,200	38	38	21	3	8
Nov. 11 CTV	1,100	39	39	20	2	15
Nov. 14 Gallup	1,026	35	35	26	4	8
Nov. 19 Reid	1,512	41	33	23	3	11
Nov. 19 Gallup	4,067	40	35	22	3	12
Nov. 19 CTV	2,720	43	32	20	5	15
Election Results	43	32	20	5		

Source: Frizzell, Pammet, and Westell; p.95.

TABLE 2

Most Important Election Issues

	MOST IMPORTANT	ALL[a] MENTIONS
ECONOMIC ISSUES		
free trade	82%	88%
state of economy generally	1	2
inflation	0	0
taxes	1	4
govt spending, deficit	2	7
unemployment	1	2
CONFEDERATION ISSUES		
national unity, intergov. relations	1	6
bilingualism, language	--	2
RESOURCE ISSUES		
environment	2	9
SOCIAL ISSUES		
housing, welfare, medicare, education, pensions, etc	2	14
OTHER ISSUES		
foreign policy, defence	0	1
leadership	2	5
party evaluations	1	1
trust in govt patronage	1	1
all others	1	3
NO ISSUES	5	X

[a]Percentage of those mentioning an issue. Two mentions possible.
Source: 1988 reinterview of 1984 National Election Study. Population weights applied. (N = 1203)

Source: Frizzell, Pammet, and Westell; p. 123.

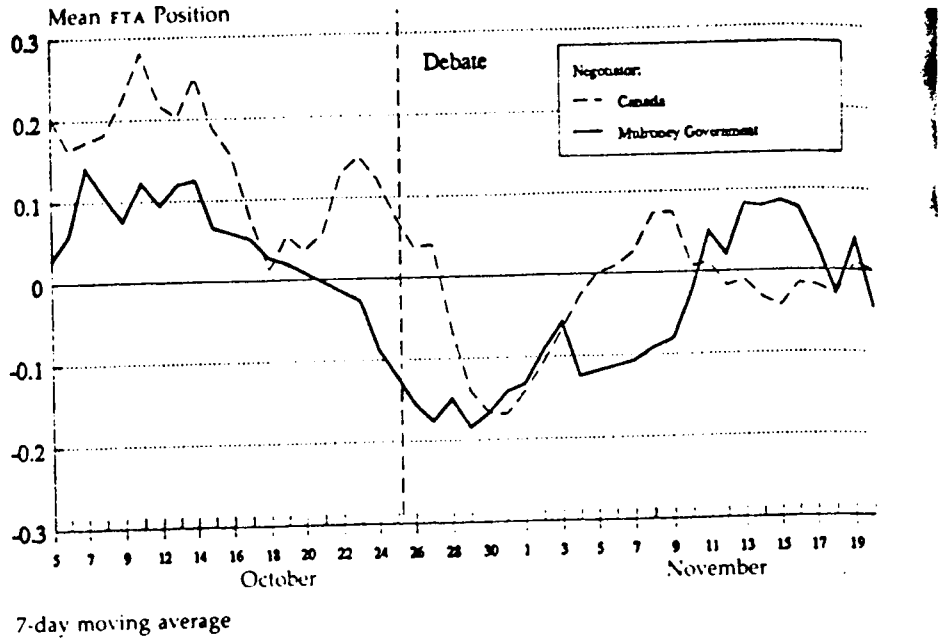


FIGURE 1

Identity of the Negotiator and CAFTA Position

Source: Johnson, Blais, Brady, and Crete; p. 152.

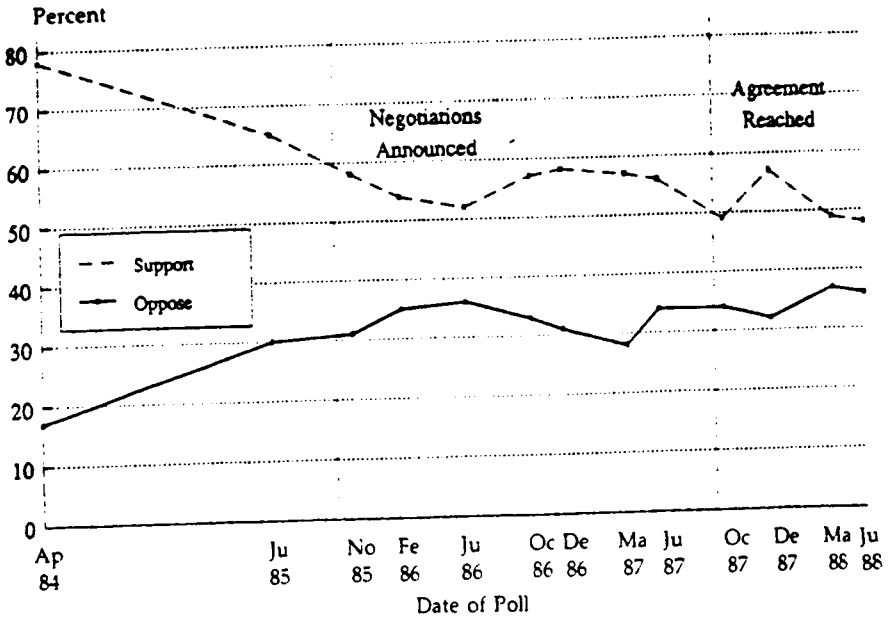


FIGURE 2

Opinion on the Issue of Free Trade: Environics

Source: Johnston, Blais, Brady and Crete; p. 143.

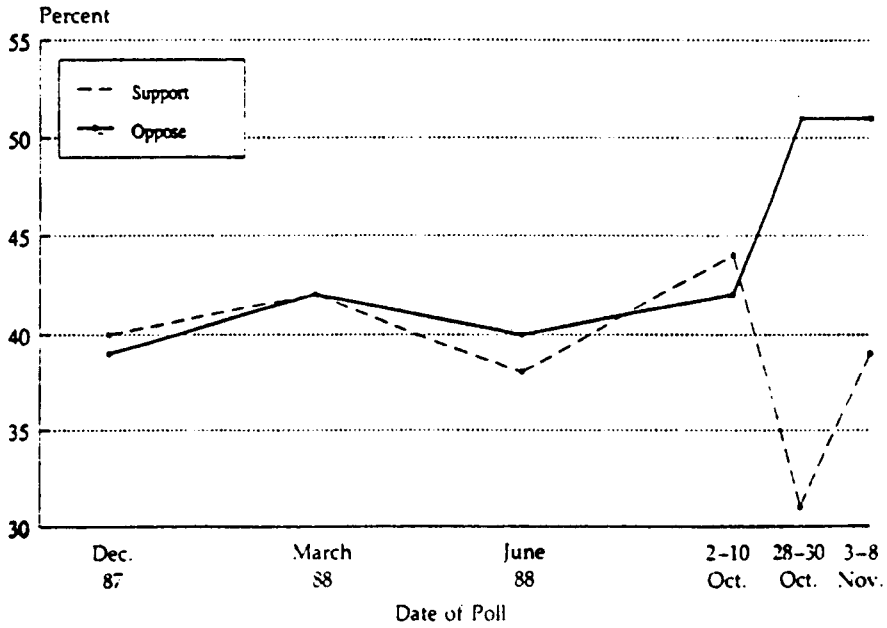


FIGURE 3

Opinion on the CAFTA: Environics

Source: Johnston, Blais, Brady and Crete; p. 145.

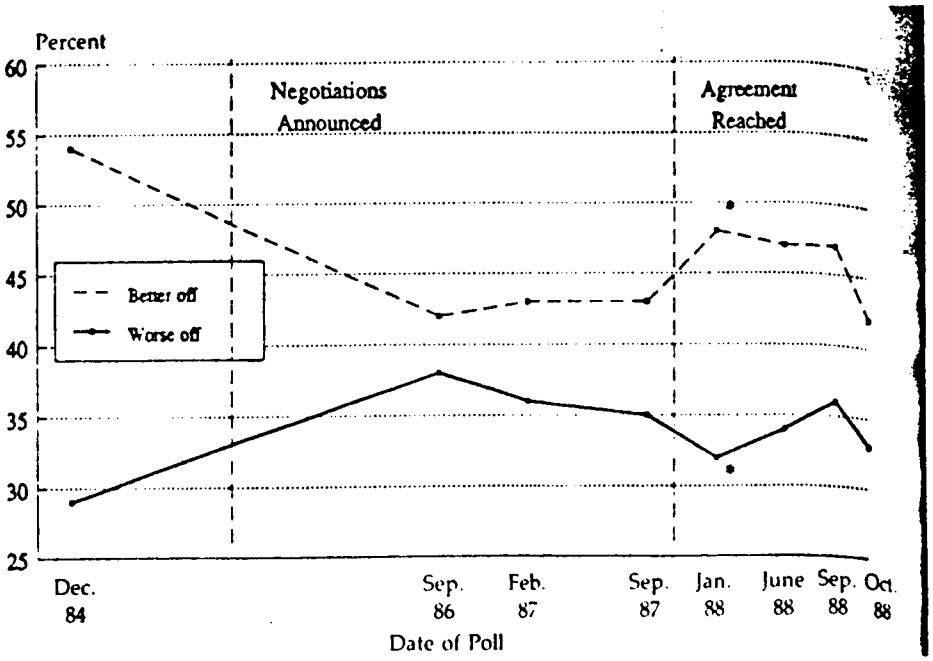


FIGURE 4

Opinion on Free Trade: Gallup

Source: Johnston, Blais, Brady and Crete; p. 144.

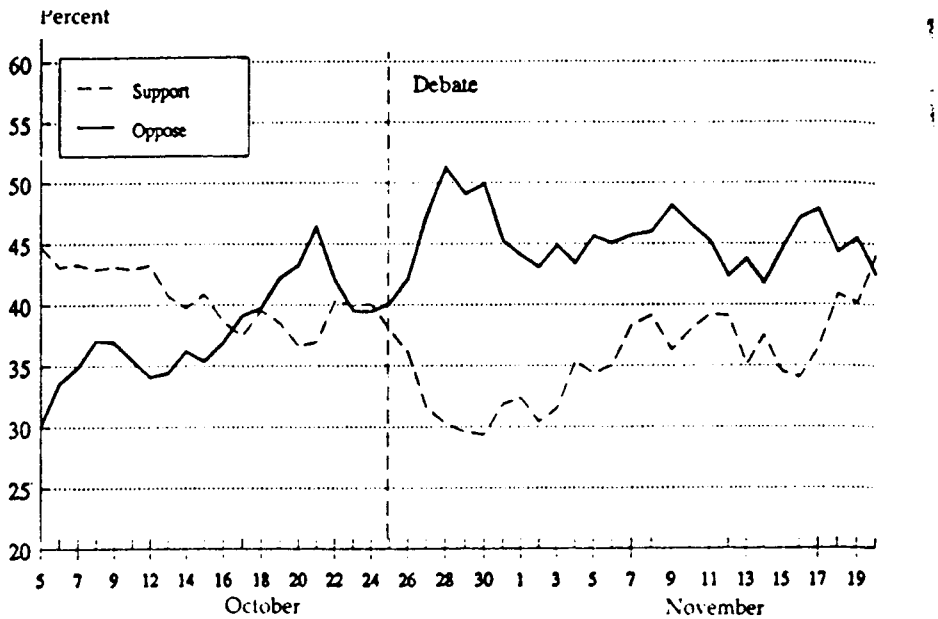


FIGURE 5

Support and Opposition to the CAFTA Among Partisans

Source: Johnston, Blais, Brady and Crete; p. 146.

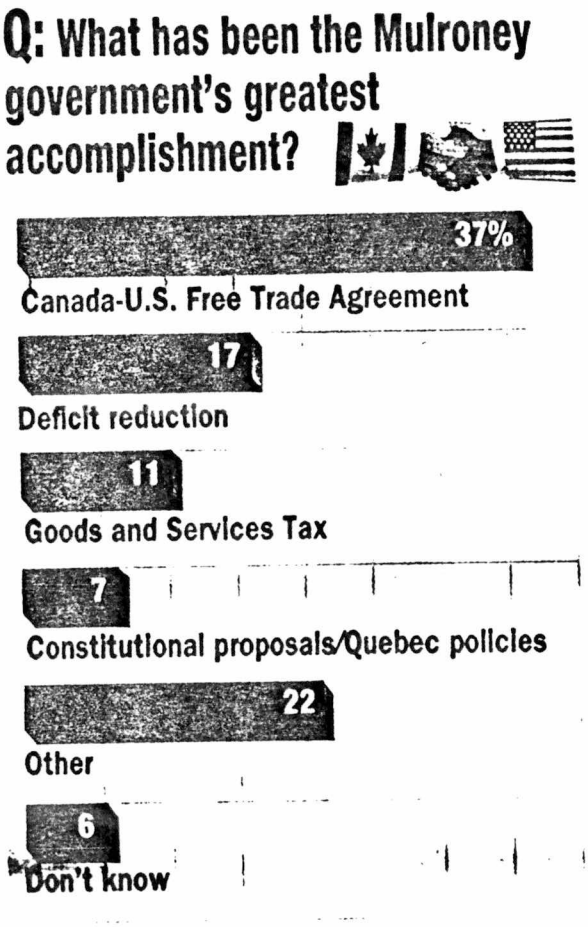


FIGURE 6

Opinion of Progressive Conservatives after Mulroney's Resignation

Source: MACLEANS. March 22, 1993; p. 18.

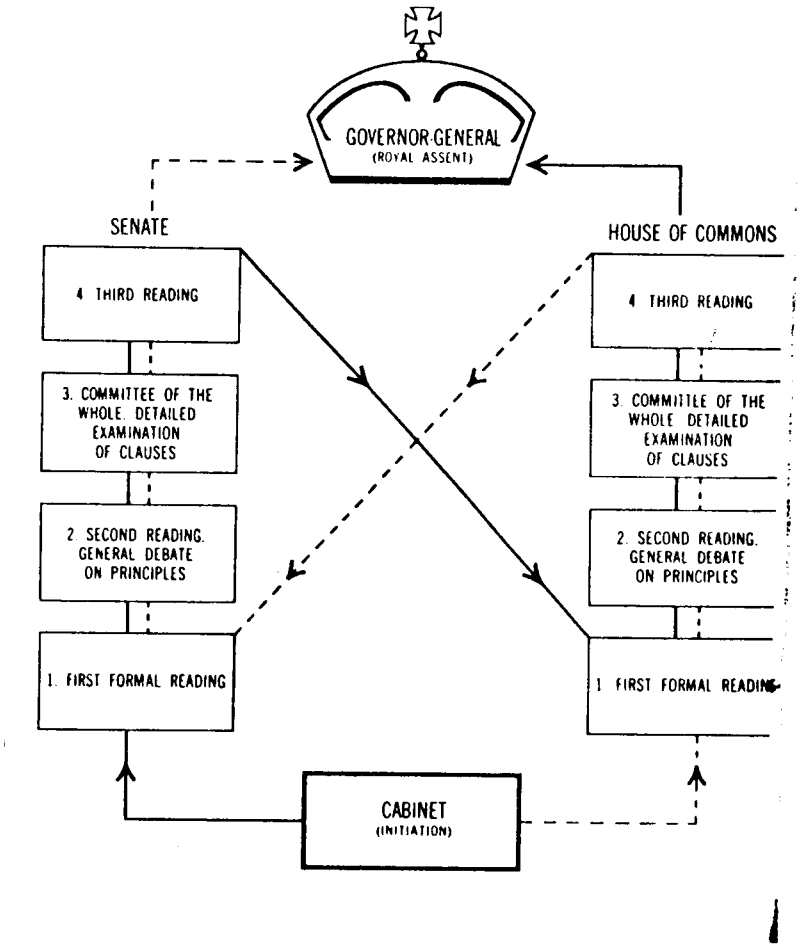


FIGURE 7

How a Bill Becomes a Law?

Source: Ricker, John and Saywell, John. HOW ARE WE GOVERNED? 1977. p. 63.

PART VII: POLITICAL STRUGGLE IN THE UNITED STATES: PLAYERS AND HISTORY

This part of the dissertation deals with the political struggle in the United States. It begins with an analysis of the participants and then goes on to discuss the struggle between them. It focuses mainly on the committee hearings and the subsequent passage of the CAFTA legislation.

A)Interest groups: their role in the trade policy process

1)Interest groups play an important role in a democracy

Interest groups are an integral part of the trade policy process, informing and pressuring all branches of government. Legislators are particularly vulnerable to pressure from groups within their states or districts, whether they represent business, labor, agriculture or some other elements in society. While officials in the executive branch are not dependent on constituent groups for votes to remain in office, federal workers in the bureaucracy tend nonetheless to be favorably disposed to the groups that their agencies serve.

The last time when interest groups and Congress completely dominated trade policy in the United States was 1930 when the Smoot-Hawley act was passed. Presidential leadership was non-existent and Congress raised the tariff to the highest point in this century. The logrolling process ("You scratch my back and I'll scratch yours") was rampant and undermined public confidence in the Congress and the federal government. E. E. Schattschneider chronicled this story in his

famous POLITICS, PRESSURES AND THE TARIFF (1935). He sought to explain why the legislative branch of government had ignored the warnings of experts in raising import duties to record levels. The reason he found, was that the combined power of special interest groups that sought import protection dominated the legislative process. "The history of the American tariff...is the story of a dubious economic policy turned into a great political success...The very tendencies that have made the legislation bad have made it politically invincible." (Schattschneider, 1935, p. 283.)

Bauer, Pool, and Dexter arrived at the opposite conclusion in their landmark study of the effect of interest groups on trade and trade legislation between 1953 and 1962. These authors argue that, "the stereotype notion of omnipotent groups becomes completely untenable once there are groups aligned on both sides. The result of opposing forces is stalemate." (Bauer, Pool, and Dexter; 1963, p. 25.) They also dismiss the image of the mercenary lobbyists portrayed in Schattschneider's earlier work and instead claim that interest groups play an important and positive role in the American political system. Truman feels that the most important point made by Bauer, Pool, and Dexter is that Congress and the political system do not take instructions from these groups, but rather act as independent agents, utilizing information from the interest groups in making their own decisions. (Truman, 1971, p. 33.)

Pastor takes a different approach claiming that since Smoot-Hawley, Congress (at least until the mid- 1970s) has been moving to increasingly liberalize trade and reduce barriers. He maintains

that in the eighteeneth and nineteeneth centuries, legislators represented sections of the country rather than their own constituents. These sectionalist groups united within particular parties so that the Republicans became the party of high tariffs and big business and the Democrats represented farmers and low tariffs. (Pastor, 1980.)

Throughout the postwar period until the mid-1970s, a bipartisan consensus had developed supporting freer trade. However, this consensus broke down during the 1970s as more groups who had benefitted from open trade began to lose and additional groups formed to fight against a more liberal trading environment. Destler cites four significant changes that brought about new patterns of interest group politics.

> a)First, and most important, the number and range of industries seeking governmental trade action have increased. Substantial protection has been achieved not just by the textile-apparel coalition, but other mature industries such as steel and automobiles. Nor is pressure on trade policy limited to those who are clearly current trade losers...
> b)At the same time, there did emerge in the 1970s and 1980s a major, national, cross-industry organization - a coalition, more accurately - that took an across-the-board trade-restrictive stance. That was, of course, organized labor, whose shift from early postwar trade liberalism was the second major development in interest-group politics...
> c)The third new development in interest group politics was the emergence of "special interests" who benefitted from exports or imports and were driven by the prospect of economic losses, to do direct battle against seekers of protection... and
> d)The fourth interesting development was the apparent erosion in the strength and political astuteness of the oldest supporters of protection. The steel industry was one apparent case. More significant, at least potentially, was the textile-apparel coalition. (Destler, 1992, pp. 189-196.)

2)Types of groups that supported and opposed the CAFTA

Most interest groups concerned with trade are well informed on the

sublitites of trade policy issues and are significantly involved in the process. Even in a case like the CAFTA, which was expected to effect to be less than 1% of the GDP, a significant amount of opposition was expressed by affected domestic industries. Because of the nature of the lobbying process, fairly small groups can often exert a disproportionate effect. Even the smallest trade group has a representative located in Washington D.C., whose sole objective is to lobby Congress on issues that pertain to that association.

Trade legislation often brings about a scramble on the part of trade associations. Over five hundred such groups testified in the hearings either for or against the CAFTA. The majority of groups testifying were in favor of the agreement. Much of the support cut across ideological lines, as the more liberal Brookings Institution joined with the more conservative think-tanks like the Heritage Foundation and American Enterprise Institute. The traditional business coalition of the Chamber of Commerce, National Association of Manufacturers, National Federation of Independent Business, etc., supported the agreement as well as other industry lobbies who felt that they would be helped by it. The American Coalition for Trade Expansion with Canada (ACTE/CAN) is a good example of an ad-hoc group that came together to support to the CAFTA. This group represented over 90% of the "Fortune 500" companies . The AFL-CIO, Steelworkers, Autoworkers, and most farm groups were among those who were against the agreement. In general, labor unions were against the CAFTA because they felt that American jobs would be lost to Canadians or altogether eliminated during the restructuring of the North American marketplace.

Most all farm groups were opposed because they felt that Canadian provincial development policies subsidized Canadian farmers to a degree that would not be acceptable in the U.S. and this would give them unfair competitive advantages. A partial listing of these groups is included in the Appendix, and more detail on the various positions of some of these groups is cited in the last section of this part.

B)Parties: is trade policy partisan?

Throughout most of the postwar period, American trade policy has operated within a national political environment that was usually conducive to freer and more open trade. Foreign trade has not been a major partisan issue. There has been competition between Democrats and Republicans for the favor of specific interest groups, but neither party has used trade policy as a major means of distinguishing itself from the other. This changed sometime in the 1970s with some Democrats taking advantage of America's trade problems and catering to local concerns. They were beginning to be seen as more protectionist, while the Republicans were generally seen to be more committed to open trade. However, this has not been the case across the board on trade matters and was not the case with the CAFTA.

Neither party affiliation nor ideology has been a reliable indicator of a legislator's position on any given international economic issue. Political liberals do not necessarily embrace the concept of an open trading system. When trade policy is involved, geography is often the dominant factor in influencing decisions. Members from oil-producing states tend to favor special import fees on

petroleum products, while their colleagues from the oil-importing states of New England are adamantly opposed. Members with a significant number of steel, textile, or footwear factories in their districts are more amenable to temporary short-term relief for import-impacted industries than those members whose districts contain such constituencies as soybean farmers or export-oriented high-tech firms. (Cohen, 1993, p. 113.) This pattern was maintained in the CAFTA debate.

C)States and regions: did they play prominently in this debate?

The states did not play anywhere near the role that the provinces played in the Canadian debate due to differences in federalism and its impact upon the trade policy process. In the U.S., trade policy has been the domain of the national government since the beginning and thus the role of the states was quite limited. No studies were done which predicted the impact of the free trade agreement on states or geographical regions. The studies looked only at the national impact. There was no meaningful signficant opposition to the agreement. While there was widespread support for the CAFTA throughout the country, there were pockets of moderate opposition by some of the border states and regions in which it was feared that Canadian imports might threaten or replace American products.

There were concerns among the farmers in Montana and North Dakota that Canadian provincial subsidies unfairly aided their Canadian counterparts. Fishermen in Maine were concerned that their catches would not be treated the same by the Canadian border officials as

those of Atlantic Canada. In New Mexico, uranium producers feared that their industry would disappear when confronted with Canadian firms able to sell their uranium duty-free in the U.S. They argued that this would endanger national security. In Michigan, which was Canada's largest trading partner among the states, auto-workers felt that the North American content standard was too low and would restrict future employment.

D)The President and Congress

The making of trade policy involves interaction between the federal executive and legislature instead of between federal and provincial governments as in Canada. Article I, Section 8 of the American Constitution provides a laundry list of congressional powers among them the power to make commercial policy. Even though the President has the power to negotiate with foreign countries, Congress retains the authority to pass or not pass trade legislation. Thus trade negotiations are conducted in the context of a delicate political relationship between the executive and legislative branches of government. Until the 1930s, Congress basically dominated the trade policy process. In order to understand how the two branches of government have worked together in crafting trade policy to the present day, some explanation must be given concerning the famous 1934 legislation.

The Reciprocal Trade Agreement Act of 1934 (RTAA) was a real watershed in American trade policy history for a number of reasons. It was the first time that Congress did not debate tariffs in a tariff bill and formally delegated that authority to the President. As a

result of the great depression the executive branch gained a great deal of power vis-a-vis the legislative branch. The President was empowered to negotiate trade agreements with other countries, and these agreements, unlike treaties or other legislation, were not subject to ratification or congressional override. This represented the beginning of a long process that would gradually reduce all barriers to trade on a reciprocal basis. (Pastor, 1980, pp. 187-188.)

The trade bill gave authority to negotiate with foreign governments on trade policy to the executive branch. Roosevelt had asked for permanent negotiating authority, but was given three-year grants instead. The 1934 bill began the reduction of tariffs from Smoot-Hawley levels by authorizing the President to negotiate and implement trading pacts with other nations. He could reduce any U.S. tariff by up to 50% without further recourse to Congress. That particular authority was renewed in 1937, 1940, and 1943. Secretary of State Cordell Hull lost no time in entering into bilateral agreements with twenty-seven countries, granting tariff concessions on 64% of all dutiable imports and reducing rates by an average of 44%. (Destler, 1992, p. 12.)

The RTAA gave the President additional trade powers in exchange for an implicit promise in seeking lower trade barriers; he would protect individual members of Congress from the inevitable pressures of interest groups and their own constituencies. From the beginning, the legislative branch never intended to forfeit much power and retained its oversight powers and maintained channels outside Congress for business and professional groups to seek additional trade barriers. It also limited the duration of the president's authority

and continued to hold this knife over executive actions thereafter. Its goal was to create a system that allows industries hurt by imports to appeal individually for help without extensive logrolling of the sort discussed by Schattschneider and others, but at the same time allow the executive to define the national interest in broader terms. Congress did not ban protection; it simply made protection the exception instead of the rule. This new bargain essentially allowed trade liberalization and selective protection to coexist.

1)Postwar period would bring changes

In the immediate postwar period, trade negotiations went multilateral. The reciprocal negotiating authority was updated in 1945 by Congess to allow for further reduction. The GATT was negotiated under American leadership and provided guidelines for national trade policies and a framework within which the U.S. and its major trading partners could enter a series of global negotiating "rounds" resulting in further tariff cuts. (Destler, 1992, p. 12.) The leap by the U.S. from bilateral to multilateral negotiations was an indication of global power status. Multilateral negotiations would continue on a regular basis until the present.

The period from the 1930s to the 1960s was characterized by the construction and elaboration of a pressure-diverting policy-management system. It had evolved from a mix of strong executive and legislative leadership and ad-hoc responses to particular pressures. It gave the American body politic not only an unaccustomed capacity to resist new trade-distorting actions, but also great success in reducing old

barriers. The period of the 1950s and 1960s was marked by unparalleled economic growth and relative prosperity which nearly doubled the annual growth rates.

The 1970s and 1980s brought far-reaching changes to the world economy. American firms and workers became much more exposed to the challenges of foreign competition in both domestic and foreign and markets. The relative position of the United States declined, as our European and Asian competitors gained on us. The rules of the international trading regime grew less effective. The advanced industrial economies were hammered by twin oil shocks in the 1970s and entered a period of stagflation, that combined rapid increases with higher unemployment and slower growth. Fixed exchange rates among currencies could not hold and the world moved to a floating rate regime that featured massive financial flows with additional severe and protracted misalignments. Finally, the collapse of the Soviet Union reinforced the longstanding trend toward tripolarity in the global economy. The U.S. was forced to share leadership with the EEC and Japan. All three needed to cooperate without the glue that Cold War security alliances had earlier provided.

2)Coalition changes and Congress fights back

The free trade coalition that had existed since the early thirties started to break down with the weakening of the labor movement in the late 1960s. Labor union membership had successfully kept any protectionist inclinations by the rank and file in check, partly because of the necessities of the Cold War and partly because freer trade was an unquestioned tenet of the Democratic Party coalition of

which they were a part. With the election of Richard Nixon in 1968, the leadership joined its membership and came out in support of quotas and limitations on the free flow of goods and capital. Labor argued that the most important changes in the international economy were the internationalization of technology, the emergence of the multinational corporation, and the lack of national management of domestic economies. (Pastor, 1980, pp. 131-132.)

By approving the Trade Act of 1974, Congress took another step in regaining some of the trade policy powers it had delegated to the President. This resulted in part from Nixon's resignation due to Watergate and the resurgence of an independent and often vindictive legislature. The act authorized the President to seek revisions of the GATT with respect to twelve specific nontariff issues. (Trade Act of 1974, Section 102.) Perhaps most importantly, it required the President to consult with members of the House Ways and Means and Senate Finance committees, as well with other relevant congressional committees, before entering into nontariff trade agreements and to submit these agreements, for approval to both Houses of Congress. Other provisions of the 1974 act increased the congressional membership in any U.S. delegation negotiating trade agreements to five from each House, established an elaborate set of advisory committees from the private sector by reorganizing and expanding the powers of the International Trade Commission (ITC), and stripped the executive branch of control over the budget of the commission. (Baldwin, 1985, pp. 37-38.)

The Trade Agreements Act of 1979 and the Trade and Tariff Act of

1984 continued these efforts at reasserting congressional control over trade policy. In the 1979 act, the President was directed to submit a plan that would restructure the trade functions of the executive branch and include mechanisms for monitoring and enforcing American rights under all trade agreements. The responsibility for administering the anti-dumping and countervailing duty laws as well as the provisions relating to protection of national security was moved from the Treasury Department to the Commerce Department. The private advisory committees established for the Tokyo Round of the GATT negotiations were also continued and their scope was extended to include matters relating to the administration of existing trade agreements and to trade policy in general. The 1984 act provides the President with specific negotiating authority to reduce or eliminate barriers to trade in services as well as the authority to deal with trade distortive effects of certain investment measures, such as export performance requirements. The "fast track" (more detail later) procedures provided in the 1974 act do not give the President sufficient authorization in the negotiation of bilateral agreements covered by the 1984 act. In addition, as a means of pressuring the President to take action, the U.S. Trade Representative (USTR) is required to report annually to Congress on the extent of foreign measures that distort the United States export of goods and services and U.S. direct investments abroad, on the actions taken during the year to reduce or eliminate such distortions and on current plans for correcting resulting imbalances. (Baldwin, 1985, p. 38.)

Although the President is the political actor who negotiates with

foreign countries on trade matters, Congess must approve trade agreements. This fact has led to the emergence of a precedent which is now nearly sixty years old. The legislative branch grants the executive explicit statutory authority to negotiate. Historically, for political rather than for constitutional reasons, the President and the Congress have accepted the idea that trade agreements should generally be negotiated on the basis of prior authority granted by both houses, which must pass implementing legislation. These legislative-executive branch agreements have the advantage of eliminating the danger that the executive will negotiate an agreement that Congress will not be willing to implement into law. (Frankel, 1988, pp. 99-100.)

The Congress may also choose to delegate additional authority to the President to make tariff changes which the President does not need to bring back to Congress for implementation; rather he can implement them through proclamation. When the legislative branch has delegated proclamation authority in the past, it has generally placed some limitations on that authority so as to maintain some control over the negotiating process. The need for implementing legislation has created an important role for Congress in trade negotiations. Congressional involvement is essential because foreign governments are quite aware of the need for congressional support and are not likely to be willing to enter into serious trade negotiations with the President if they do not believe that he has the support of the Congress. (Frankel, 1988, p. 100.)

Since the RTAA in 1934, Congress has periodically extended the

authority of the President to reduce tariffs on a reciprocal basis and has provided him with additional tariff-cutting authority. This authority has only been given for short periods of time (usually three-years) and has been defined in various ways that provide Congress with the opportunity to periodically stop any further reductions of duties that were provided for in the legislation. By granting such authority, Congress has attempted to avoid the political risks of detailed trade policy-making while making sure that its intentions are closely followed. It has also used the renewal of authority as an occasion to constrain the tariff-cutting authority in a number of ways. (Baldwin, 1985, pp. 34-35.) Before taking up the committee hearings on the CAFTA, some mention must be made of the procedural aspects of the legislation.

3)The procedural aspects of the bill

In the normal legislative process, after legislation is introduced, it proceeds to mark-up, subcommittee, committee, the full House and Senate, and conference committee. Each standing committee's formal responsibilities are defined by the rules of each house, various public laws, and precedents. The primary committees for dealing with trade legislation are Ways and Means in the House and Finance in the Senate; however with any broad subject like trade there is a great deal of overlap in committee jurisdiction. (Davidson and Oleszek, 1990, p. 212.) (A list of the various House and Senate committees that conducted hearings on the CAFTA appears in the Appendix.) These committees do not have watertight jurisdictional compartments. From mid-December 1987 to May 1988, the relevant

subcommittees and committees held public hearings,"nonmarkup markup sessions," and a "nonconference conference" to reconcile differences between the drafts that had been separately worked out by each house of Congress with the Reagan administration.

Since the legislation had not been formally introduced, the relevant committees could not consider the language of the particular legislation in a markup session. However, they did the functional equivalent on unofficial texts in "nonmarkup markup" sessions before the legislation was introduced. Similarly, since both houses of Congress had not yet passed different versions of the legislation, there could not be a conference to reconcile the two versions; but representatives from the House and Senate, in a "nonconference conference," reconciled their differences on the draft legislation before it was even introduced. These activities performed the functions of markup and conference, but at different stages of the legislative process, thus allowing the legislative branch a chance to participate in shaping the draft legislation without violating its commitment not to amend the legislation once introduced.
(Leyton-Brown, 1990, pp. 29-30.)

E)Committee Hearings and Passage

1)The hearings begin

In December, key committee members from both houses of Congress asked President Reagan not to submit the CAFTA until June so as to allow them to finish work on the omnibus trade bill. Hearings were held for the next five months in a number of different committees, among them the House Small Business and Ways and Means Committees, as

well as the Senate Energy and Natural Resources and Finance Committees. The hearings in all but the last will be covered below.

a)House Small Business Committee

The first public hearings were held on December 14, 1987, by the House Committee on Small Business. Some twenty-one witnesses testified concerning the impact of the CAFTA on small business; sixteen favored the agreement. These witnesses included Canadians as well as Americans. Among the groups represented that supported the agreement were the American Business Conference, American Express Corporation, and the Carnegie Endowment for International Peace. Among those opposing were most notably the National Association of Wheat Growers and the United Steelworkers of America. (Committee on Small Business, 1987, p. III.) I shall deal mainly with those groups who opposed the agreement. (In Appendix I of this chapter a list of groups supporting and opposing the CAFTA appears.)

Two witnesses opposing the CAFTA were James Miller, president of the National Wheat Growers, who summed up well the position of agricultural groups opposing the agreement and Lynn Williams, president of the United Steelworkers whose testimony was representative of arguments presented by several labor groups opposing the CAFTA. Miller argued as follows:

> The import policies of the two countries are really quite different. Basically, the U.S. is open, not only to Canada, but open to other countries who may wish to export grain products into the United States...The Canadian system, however, is significantly different from the standpoint that it is closed. It is closed through the operation of a restrictive import licensing programs that amounts to a ban on the importation of wheat, as well as the imposition of tariffs on wheat and wheat products...In the end, what we have then is a border that will be open one direction - open on the U.S. side and closed on the Canadian side. We have exports that will still benefit the Canadians and provide them greater incentives relative to the U.S. export interests, and it seems very clear to me that in the case of the FTA, it is likely not only hurt U.S. wheat farmers, and in many cases other grain farmers in the U.S. (Committee on Small Business, 1987, pp. 60-61.)

Williams expressed his concern for workers who would be thrown out of work as a result of the CAFTA and his concern for broader American interests as well. Representatives from interest groups often try to tie their complaints to wider issues like the economic welfare or the security of the nation as a whole. For example Williams indicated his support for maintaining "in each country a reasonably balanced economy...not just one that is resource based, but one that maintains manufacturing and, indeed improves manufacturing capacity... " (Committee on Small Business, 1987, p. 23.)

b)House Ways and Means Trade Subcommittee

These hearings were held on February 9, 1988. Sam Gibbons (D-Florida), the chairman of this influential subcommittee, was generally thought of as a "free trader." The first witnesses were USTR Clayton Yeutter and Treasury Secretary James A. Baker III, who urged committee members to consider the broad benefits of the CAFTA, not just its short-term costs. Baker listed three major reasons why the U.S. should approve the agreement:

> 1)First, this agreement can and should strengthen not only the GATT, but the entire world trading system...
> 2)Second, the free trade agreement breaks new ground by defining rules in areas of services, investment, and technology, while respecting national sovereignty. The accord includes the U.S. first bilateral agreement covering the financial services sector and recognizes the close link between trade and investment in the modern world. This breakthrough should provide the basis for GATT provisions in these areas and offer the means by which our two countries can, in the future, negotiate on emerging issues.
> 3)Third, this agreement is part of a trade policy strategy that should reassure other nations that recognize the value of a more open-world economy...Pressure to adjust U.S. trade policy should not take a negative, unilateral form. (Trade Subcommittee of the House Ways and Means Committee, February 1988, p. 91.)

However the hearings were dominated by committee members' dreary assessments of the CAFTA's effect on the egg, steel, automobile, and film industries, and on dairy and wheat producers. While Presidents are supposed to represent the national interest and take the long view, congressmen run for re-election in small districts every two years and often take narrow short views, especially if their constituents are affected. Ed Jenkins (D-Georgia) and Byron Dorgan (D-North Dakota) were representative of such congressmen. In an exchange with Baker, Jenkins asserted that:

> Various poultry and egg producers from the southeast, including my district, are concerned with the agreement because they did not feel, first of all, that they were really consulted too much during the negotiation process. They feel that the agreement might be harmful to their interests since it would phase out the tariff protection for U.S. producers. I am speaking primarily in the egg area...It is just very difficult to explain to egg producers that they are limited to 1.6 per cent of the Canadian market, while those same products coming into our markets are totally open. (Trade Subcommittee on the House Ways and Means Committee, February 1988, pp. 55-57.)

Dorgan, the only Congressman from North Dakota, which has a several hundred mile common border with Canada, was equally vocal in expressing the concerns of constituents:

> Now if I am a wheat grower in this country, I can see that the U.S. market is relatively wide open to Canadian exports, and the Canadian market is largely closed to imports from this country...Obviously, I think the broad statement by some members of this committee are accurate, that in the long term, linking the arms of the two largest trading partners on this globe in a free trade agreement is good. But we do not always live in the long term. We live in the short term as well. So we have to analyze what happens to our producers in the next 3, 5, and 10 years. If they are broke after 9 years, and a free trade agreement is in place after 12 that will not mean a whole lot. So all of us are trying to understand this from our individual perspective. (Trade Subcommittee of the House Ways and Means Committee, Febraury 1988, pp. 85-88.)

A second set of hearings was conducted by the House Ways and Means Subcommittee on Trade on March 11 and 25, 1988 in Fargo, North Dakota, which is in the district of Congressman Dorgan. These hearings gave the congressmen and the Reagan administration emissaries present a better understanding of the concerns of those who opposed the CAFTA, why they did, and what could be done to deal with their problems. The hearings were not limited to those who opposed the agreement, but opponents tended to make the most noise. Wheat farmers, plywood manufacturers, and textile workers were among those testifying against the CAFTA.

Wheat farmers were upset over the status quo sections of the CAFTA that did not deal with their worries about Canada's excessive use of farm subsidies. Several farm groups that included the Minnesota Association of Wheat Growers and the North Dakota Wheat Commission testified concerning their opposition to the CAFTA. They argued that by allowing subsidies to stay in place, the U.S. government legitimized the use of other subsidies. Their list (of "subsidies") included a number of items not usually considered subsidies.

1)use of chemicals that Americans could not use;

2)an Endangered Species Act that Canada did not have;

3)health insurance provided by the Canadian government to all its citizens;

4)allowing rail subsidies to Canadian farmers to compete with Americans for over 85% of the wheat shipped to the United States and

5)the monopoly-based Canadian Wheat Board that essentially keeps the Canadian market closed to imports.

The Reagan Administration's reply to these arguments was that agricultural subsidies would be taken up in the multilateral GATT talks. (Trade Subcommittee of the Committee on Ways and Means, March 1988, pp. 444-456.)

Ron Wyden (D-Oregon) testified in statement form on behalf of the domestic plywood manufacturers. Wyden represented the concerns of timber-producing manufacturers and states that felt that building code restrictions on plywood in Canada unfairly discriminated against the use of U.S. made, CDX grade plywood which accounted for 80% of the plywood produced in this country and thousands of American jobs. The fear was that the free trade agreement would allow largely closed Canadian markets and unrestricted Canadian access to U.S. markets. The Reagan Administration's response was that they would continue to pressure the Canadians to agree to different standard on the use of plywood that would help remove the troublesome non-tariff barrier that was restricting U.S. exports. (Trade Subcommittee of the Committee on Ways and Means, March 1988, pp. 600-601.)

Jack Sheinkman, president of the Amalgmated Clothing and Textile

Workers, who represented some 282,000 members of whom 30,000 are Canadians, also testified in opposition to the CAFTA. He felt that no additional jobs would be created by the agreement. He also argued that the major consequence would be that imports from all over the world would flood into both countries to take advantage of the enlarged market and that there was a lack of custom officials to adequately monitor the trade flows across the long border between the two countries. USTR's reponse was that textiles would be handled by the renegotiation of the multilateral agreement on fibers that was to expire in 1991. They felt that this would be the appropriate way to deal with such problems. (Trade Subcommittee of the Committee on Ways and Means, March 1988, pp, 611-613.)

c)Senate Committee on Energy and Natural Resources

Hearings were also held on April 19 and 21, 1988. These hearings dealt with the energy and natural resources section of the CAFTA. Bilateral trade in energy and related products was valued at over $15 billion in 1985, of which American imports from Canada accounted for over $12 billion and U.S. exports to Canada accounted for about $3 billion. The relationship suggested to many of the participants in the hearings that the benefits as well as the burdens of a free trade agreement would fall disproportionately on U.S. producers and consumers. Uranium and natural gas producers were among those most concerned about the possible effects of the CAFTA.

The domestic uranium producers felt that the repeal of section 161 (v) of the Atomic Energy Act with respect to uranium imports from

Canada would conflict with the section's requirement that the U.S. government maintain a viable domestic injury. Senator Jeff Bingham (D-New Mexico) was very much troubled about the potential impact of the CAFTA on the uranium and also the natural gas industry. He presented his concerns as follows:

> With respect to natural gas, the primary concentration of Canadian exports go to the California market. New Mexico has been a predominant supplier of natural gas to this market. However, in the past three years, Canadians have displaced much of the New Mexico gas. It is clear that this displacement is the result of the Canadians being willing to sell their gas cheaper than our domestic producers are able to. New Mexico producers would suggest that part of this was due to difference in rate design which the Federal Energy Regulatory Commission (FERC Order #256) "as billed" decision attempted to address. I would like assurances today that FERC Order 256 will not be changed nor affected by the Free Trade Agreement. (Senate Committee on Energy and Natural Resources, 1988, pp. 5-6.)

The administration's response was that sufficient trade laws protected the domestic energy industry and that the CAFTA would not undermine national security but increase it by providing more stable energy supplies that did not come from the volatile Middle East.

2)The CAFTA moves out of the committees

The unofficial markup process began in the House Ways and Means and Senate Finance committees in May as writers in both bodies began putting together the language that would carry out the proposed trade agreement. Problems still remained unsolved, but under the "fast-track" rules for trade legislation, the bill would not be introduced until the Congress and the Reagan administration had agreed on its final form. Senate Finance Chairman LLoyd Bentse (D-Texas) called the May activity a "non-markup." Bentsen and others wanted the legislation to compel the President to consult more thoroughly with

Congress on trade policy involving the two countries. Other concerns included not allowing the agreement to go into effect until the President determined that Canada has taken appropriate steps to assure compliance by provincial and local governments. A provision addressing this concern was added at the suggestion of Senator John Heinz (R-Pennsylvania). (Wehr, May 21, 1988; p. 1363.)

Two other provisions in the Finance Committee draft relating to the new Canadian trade dispute-settlement panels also reflected the uneasiness of the legislative branch about future Canadian actions and subsequent U.S. responses. Over USTR protests, the Finance committee included requirements suggested by Heinz that American members of the panels must hear appeals of U.S. and Canadian government agency decisions on subsidy cases and on dumping cases. The administration objected to these provisions claiming they would delay the creation of the panels, which were expected to function only until the two countries negotiate better arrangements on subsidies and anti-dumping duties. U.S. industries were not happy with the panel arrangements. They feared disruption in the system that guaranteed them offsetting American. duties if they could prove to U.S. trade agencies and, on appeal, to United States trade courts, that the competing Canadian goods were being subsidized or dumped. Under the new system, the review of U.S. agency decisions on appeal would be made by the binational panels. Senator John Danforth (R-Missouri) said that he was not very enthusiastic about the CAFTA and added that "this agreement ratifies a widspread practice of subsidies that permeates the Canadian economy." (Wehr, May 21, 1988; pp. 1363-1364.)

Administration negotiators during May compromised with a bloc of western senators whose objections could have derailed the entire pact. Robert Packwood (R-Oregon) declared one such deal on plywood to be "a happy settlement all around." The compromise included in both Finance and Ways and Means bills, retained current tariffs on plywood until both countries agreed on a common standard for its use in construction. Another compromise was pressed by Max Baucus (D-Montana), who like other western senators, was concerned about the impact of tariff-free Canadian exportation of the products of natural resource-based industries such as copper, coal, natural gas, and uranium. The USTR pledged that it would monitor subsidies at the request of any American industry and that this monitoring could provide data for unfair-trade cases and for future negotiations on subsidies. (Wehr, May 21, 1988; p. 1364.)

3)Passage of the CAFTA

After conferees worked out the differences between the House and Senate versions of the measure, the House voting 366-40 and the Senate voted overwhelmingly to pass it. The measure brought a number of U.S. statutes into conformity with the free trade agreement. The "no" votes came primarily from congressmen whose states depended heavily on industries such as energy (New Mexico), agriculture (Montana and North Dakota), and seafood (Maine) and who believed that the pact would worsen their constituents'trade problems with their Canadian competitors. (A list of Senators that opposed the CAFTA is included in the Appendix.) President Reagan held a signing ceremony for the CAFTA bill (PL 100-449) on September 28, 1988. He called it "a hallmark of

free trade, in marked contrast to the damaging protectionist textile bill that I vetoed earlier today." (Congressional Quarterly, October 1, 1988; p. 2718.)

As one looks closely at the vote in Congress, some general patterns emerge. First, this was a bipartisan effort that cut across party lines. In the House, 94% of the Republicans and 88% of the Democrats voted for the agreement. In the Senate the story was much the same as 95% of Republicans and 86% of the Democrats voted in favor. Second, the opposition was quite small and generally concentrated in those states that bordered Canada. In the House, 22 out of the 40 negative votes came from states that shared a common border with Canada while 6 of the 9 Senate votes against the CAFTA were from such states. The remaining opposition was scattered across the country, but came primarily from those areas which contained industries that were in direct competition with industries in Canada, like the uranium industry in New Mexico. In Maine, the opposition to the CAFTA was led by the fishing industry that competed against Atlantic Canada. In the Dakotas, the opposition was led by wheat farmers whose interests were directly threatened by farmers in Manitoba and Saskatchewan. In Michigan, there was opposition from the autoworkers who were in direct competition with workers in Ontario. There were also pockets of opposition from the coal industry situated in West Virginia and Kentucky, which was concerned that it would be hurt by hydro-electric imports from Quebec and Ontario. Canadian power producers would now be able to sell tariff-free to the New England area. Third and finally, there was a great deal of goodwill expressed

toward Canada during the hearings and in the final vote by supporters of the CAFTA. Canada is generally seen by Americans as being culturally closer to us than any other country in the world. Furthermore she was not perceived to be an economic threat to the U.S.

In conclusion, it must be remembered that Canada was and continues to be our largest trading partner and perhaps our best friend in the world. The U.S. business community has been very active in Canada during this century and should continue to be so as a result of the passage of this agreement. Those interests that supported the CAFTA cut across ideological, party, and regional lines in Congress and the country as a whole.

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APPENDIX

A)Those supporting the CAFTA

1)National Federation of Independent Business
2)American Coalition for Trade Expansion with Canada
3)American Business Conference
4)Chamber of Commerce
5)National Association of Manufacturers
6)National Foreign Trade Council
7)Emergency Committee for American Trade
8)Motor Vehicle Manufacturers Association of the United States
9)American Electronics Association
10)National Association of Printers and Lithographers
11)American Gas Association
12)Citizens for the U.S.-Canada Trade Pact
13)Northern States Power
14)Coalition of Service Industries
15)The Institute for International Economics
16)The Brookings Institution
17)Automotive Parts and Accessories Association
18)American Enterprise Institute for Public Policy Research
19)The Cato Institute
20)The Heritage Foundation
21)Small Business Alliance for U.S./Canadian Trade
22)National Cattlemen's Association
23)American Public Power Utility Commission
24)New England Electrical System
25)California Public Utility Commission
26)California Energy Commission
27)Pacific Northwest Utility Conference Committee
28)Interstate Natural Gas Association
29)Public Power Council
30)National Gas Supply Association
31)American Insurance Association
32)Carnegie Endowment for International Peace
33)National Governors Association
34)U.S. Council for International Business
35)International Trade and Business Council
36)American Paper Institute
37)Computer and Communications Industry Association
38)California Wine Industry
39)Citizens for a Sound Economy
40)Consumers for World Trade
41)Florida Fruits and Vegetables Association
42)United Fresh Fruit and Vegetable Association

B)Those opposing the CAFTA

1)AFL-CIO
2)Teamsters
3)Industrial Leather Goods, Plastics, and Novelty Workers Union
4)Non-Ferrous Metal Producers Committee
5)Independent Zinc Alloys Association
6)Motor and Equipment Parts Manufacturers Association
7)Automotive Parts and Accesories Association
8)American Plywood Association
9)Uranium Producers of America
10)North Dakota Wheat Commission
11)North Dakota Producers and Wheat Growers
12)U.S. Durum Council
13)North Dakota Barley Council
14)Red River Valley Sugarbeet Growers Association
15)National Corn Growers Association
16)United Auto Workers
17)Custom and International Trade Bar Association
18)North Dakota Farmers Union
19)North Dakota National Farmers Organization
20)North Dakota Corn Growers Association
21)Uranium Producers of America
22)Independent Oil and Gas Association of West Virginia
23)Nebraska Wheat Board
24)National Save the Family Farm Coalition
25)American Agricultural Movement
26)League of Rural Voters
27)United Steelworkers of America
28)American Wine Producers Association
29)International Ladies and Garment Workers Union
30)Minnesota Association of Wheat Growers
31)Amalgmated Clothing and Textile Workers

FIGURE 1: Partial Listing of the Interest Groups Supporting and Opposing the Canadian-American Free Trade Agreement

A)House Ways and Means Trade Subcommittee

1)Sam Gibbons, (D-Florida), Chairman
2)Dan Rostenkowski, (D-Illinois)
3)Ed Jenkins, (D-Georgia)
4)Thomas J. Downey, (D-New York)
5)Don J. Pease, (D-Ohio)
6)Marty Russo, (D-Illinois)
7)Richard A. Gephardt, (D-Missouri)
8)Frank J. Guarini, (D-New Jersey)
9)Robert T. Matsui, (D-California)
10)Philip M. Crane, (R-Illinois)
11)Bill Archer, (R-Texas)
12)Guy Vander Jagt, (R-Michigan)
13)Bill Frenzel, (R-Minnesota)
14)Dick Schulze, (R-Pennsylvania)

B)Senate Finance Committee

1)Lloyd Bentsen, Chairman (D-Texas)
2)Spark M. Matsunga, (D-Hawaii)
3)Daniel Patrick Moynihan, (D-New York)
4)Max Baucus, (D-Montana)
5)David L. Boren, (D-Oklahoma)
6)Bill Bradley, (D-New Jersey)
7)George J. Mitchell, (D-Maine)
8)David Pryor, (D-Arkansas)
9)Donald W. Riegle, Jr., (D-Michigan)
10)John D. Rockefeller IV, (D-West Virginia)
11)Tom Daschle, (D-South Dakota)
12)Robert Packwood, (R-Oregon)
13)Robert Dole, (R-Kansas)
14)William V. Roth, Jr., (R-Delaware)
15)John C. Danforth, (R-Missouri)
16)John H. Chafee, (R-Rhode Island)
17)John Heinz, (R-Pennsylvania)
18)Malcolm Wallop, (R-Wyoming)
19)David Durenberger, (R-Minnesota)
20)William L. Armstrong, (R-Colorado)

FIGURE 2: Congressional Trade Committee and Subcommittee Membership during the 100th Congress

A)House
 1)Ways and Means
 2)Banking, Finance, and Urban Affairs
 3)Energy and Commerce
 4)Agriculture
 5)Foreign Affairs
 6)Interior and Insular Affairs
 7)Judiciary
 8)Small Business

B)Senate
 1)Finance
 2)Energy and Natural Resources
 3)Governmental Affairs
 4)Judiciary
 5)Housing and Urban Affairs
 6)Agriculture, Nutrition, and Forestry
 7)Commerce, Science, and Transportation

FIGURE 3: List of Congressional Committees that held Hearing on the CAFTA

A)Democrats
 1)Ford (Kentucky)
 2)Mitchell (Maine)
 3)Levin (Michigan)
 4)Melcher (Montana)
 5)Bingaman (New Mexico)
 6)Burdick (North Dakota)
 7)Conrad (North Dakota)

B)Republicans
 1)Cohen (Maine)
 2)Domenici (New Mexico)

FIGURE 4: List of Senators who voted against the CAFTA

PART VIII: CONTENT OF THE AGREEMENT

This part will present a chapter-by-chapter description of the Canadian-American Free Trade Agreement. The CAFTA is the most extensive trade agreement ever concluded between two countries. It covers more trade-related issues than any other pact and breaks new ground. It will be of lasting value to the Canadian and American economies. It sets a new standard for trade agreements concluded under the GATT. It takes a number of GATT commitments, bilateral arrangements, and ad hoc understandings and incorporates them into a treaty which should govern Canadian-American trade and economic relations for the foreseeable future. Both countries profited from this "win-win" agreement. The CAFTA should chart a new course for the largest bilateral trading relationship in the world. It should add significantly to economic growth, incomes, and employment in Canada. It takes a strong stand against protectionism and for trade liberalization. It reflects the commitment of both governments to liberalize trade on a global basis through multilateral negotiations under the GATT. The CAFTA covered over one thousand pages when one includes the tariff schedules and annexes. When referring to the CAFTA, I have relied on the three-hundred plus-page text given to researchers (not the original) that was provided by the Canadian government. The full citation will be listed in the reference section.

The CAFTA consists of eight parts, 21 chapters, 153 articles, three agreed letters and numerous annexes. The easiest way to gain an appreciation of its content is through examining a simple listing of

the titles of the 21 chapters. Figure 1 supplies an overview of the CAFTA at a glance. Fourteen of the 21 chapters deal with issues or rules that are horizontal in nature, meaning that they cut across the entire economy. Six chapters deal more directly with vertical sectors of the economy such as autos, energy and agriculture, while one covers an ad hoc list of trade irritants. This listing makes it clear why the agreement is viewed as broad in scope and why many have had difficulty assessing its overall and sectoral consequences. There is no precedent in Canadian history for an agreement of this magnitude. A number of the key sections of the CAFTA confirm each country's GATT obligations. In the preamble both countries resolve "to build on their mutual rights and obligations under the General Agreement on Tariffs and Trade and other multilateral and bilateral instruments of cooperartion," furthermore Article 101 indicates that the GATT is the basis for the CAFTA. While it was seen by some as an alternative to the GATT, it adheres to Article XXIV of the GATT concerning the establishment of free trade areas. Finally, the CAFTA contains many features that are extremely significant in relationship to existing world trade law and policy. These included provisions on investment, services, agriculture, and rules of origin. Of particular importance here are the dispute-settlement provisions in Chapters 18 and 19, and numerous other sections where provision for consultation and joint action is made. (Doern and Tomlin, 1992, pp. 71-72.)

Any effort to evaluate the CAFTA must take into acount the fact that gains and loses occur across the agreement as a whole. There is no iron law of negotiation that says a party must win in each sector.

In fact, such a requirement would likely make a negotiated agreement impossible to achieve, because the other party would be unlikely to accept such a bargain. There are a number of problems associated with evaluating the agreement. In the absence of any comprehensive system of evaluation, one must simply look at each country's objectives and assess the degree to which they were met.

Canada's original goal was enhancing and securing markets, but as the political debate escalated, national security was also emphasized. The U.S. gave the Canadian negotiating team a list of irritants and indicated a desire for progress in removing them. They included blockages to the export of services and the lack of protection for intellectual property. Bad memories of the NEP and the FIRA of the Trudeau years remained stuck in the American mind. Not all of the two countries' goals were met, but the main core was in both cases. Canada gained a more secure access to a larger market. She also gained the institutionalization of the bilateral realationship through the establishment of the dispute settlement procedures, while the U.S. gained advantages in the investment, energy, and services area. The gains realized by producers who were given the opportunity to rationalize production were gains for both countries. Cost savings will accrue through economies of scale and increases in productivity will make Canadian firms more competitive, and with this heightened competition should come a more dynamic North American economy. (Lipsey and York, 1988, pp. 24-33.) Before going on to a discussion of the agreement, some mention about the numbering of articles is in order. The first article in chapter 1 is article 101, the first

article in chapter 2 is article 202 and so on.

FIGURE 1

CHAPTERS OF THE AGREEMENT

1)Objectives and Scope
2)General Definitions
3)Rules of Origin for Goods
4)Border Measures
5)National Treatment
6)Technical Standards
7)Agriculture
8)Wine and Distilled Spirits
9)Energy
10)Trade in Automotive Goods
11)Emergency Action
12)Exceptions for Trade in Goods
13)Government Procurement
14)Services
15)Temporary Entry for Business Persons
16)Investment
17)Financial Services
18)Institutional Provisions
19)Binational Dispute Settlement in AntiDumping and Countervailing Duty Cases
20)Other Provisions
21)Final Provisions and Agreed Letters

Source: THE CANADIAN-U.S. FREE TRADE AGREEMENT. Department of External Affairs: Minister of Supply and Services. Ottawa, Ontario: 1988.

A)Objectives and Definitions

Chapter One sets the tone for the agreement as a whole. It is broader in scope than previous pacts as it provides for liberalization in all sectors of the economy, including agriculture. No other free trade agreement which had been negotiated under the GATT (the 1960 European Free-Trade Area; the 1965 UK-Ireland Free Trade Agreement; the 1983 Australia-New Zealand Closer Economic Relations Agreement; or the 1985 United States-Israel Free Trade Agreement) included binding commitments on trade in services, business travel and investment. No other agreement provided a basis for developing new rules to deal

with subsidies, dumping and countervailing measures. Article 102 sets forth the agreed objectives of the two countries. The CAFTA will:

> 1)eliminate barriers to trade in goods and services and between the territories of the Parties;
> 2)facilitate conditions of fair competition within the free trade area;
> 3)liberalize significantly conditions for investment within this free trade area;
> 4)establish effective procedures for the joint administration of this Agreement and the resolution of disputes; and
> 5)lay the foundation for further bilateral and multilateral cooperation to expand and enhance the benefits of the Agreement.

Chapter Two sets forth the definitions of the words critical to the application of the agreement as a whole.

B)Tariff Removal concerning General Categories of Goods

Chapter Three provides for the elimination of tariffs either immediately, or over five or ten year reduction schedules. While tariffs come down, they are being replaced by a complex new system of rules of origin, designed to ensure that only goods made in Canada or the United States are admitted. This means that most goods must incur 50% of their manufacturing costs in either or both countries. While the establishment and extension of the principle of national treatment was a simple reassertion of GATT principles, it was significant because it now applied to such non-GATT areas as services and investment.

Chapter Four requires the elimination of duties and other restrictions on substantially all the trade between the parties. It provides for the removal of all tariffs, tariff-related measures, and

quantitative restrictions and other restrictive measures applied at the border on or before January 1, 1998. In recent years, nations have stopped relying on tariffs as a way of excluding exports. In their place a whole new range of non-tariff measures has come into existence. The transition period is consistent with transition periods established in previous agreements.

Articles 404 and 405 are extremely important to the U.S. Article 404 contains the language covering the area of duty drawbacks. Drawbacks occur when countries allow industries to import duty-free parts and materials which they intended to incorporate into products for the export market. In essence they pay the duty and the government refunds it. Drawbacks are prohibited by 1994 under the agreement. They have had the potential to distort the CAFTA. An important exemption to Article 404 has to do with textiles. Apparel makers will still be allowed to import duty free under this exemption. Article 405 deals with duty remissions which have long been controversial. Up until the CAFTA, Canada sometimes refunded all or part of the import duties that a foreign company owed if it could be shown that it contributed in some significant way to the health of the Canadian economy. Many non-North American companies could benefit from the program by simply showing that they created jobs by opening new plants. The biggest profiteers under this arrangement were the Japanese automakers with plants in Canada. As a result of duty remissions, they were able to bring in their parts and components without paying the usual import charges. American negotiators successfully argued that such arrangements ran counter to the 1965 Auto Pact by allowing a back-door

route into the North American market. (Goar, December 15, 1987; p. B4.)

Chapter Five incorporates the fundamental national treatment obligation of the GATT into the Free-Trade Agreement. This means that once goods have been imported into either country, they will not be an object of discrimination. Such an obligation is an essential part of the agreement because when trade barriers are eliminated it prevents their replacement by internal measures favoring domestic goods over imports. If this provision were not part of the CAFTA, exporters in either country would have no guarantee of equal treatment. Generally speaking, the practical effect of this chapter is to require that internal taxes, such as sales or excise taxes, cannot be higher on imported goods than on domestic goods. These guarantees will allow producers, traders, investors, farmers, and fisherman to plan and invest with a certain degree of confidence.

Chapter Six on technical barriers concerns labeling, packaging, and certification of product standards. Its provisions reduce social, health, and safety rules affecting general commerce and simplify them. In the future, standards are to be structured in terms of general performance characteristics rather than precise design specifications. This means that technical standards are to be devised and implemented so as not to constitute a barrier to trade. Allowances are made for Canada's health, safety, and environmental policy. However, free trade opponents argued that this would yield irrestible pressure on Canada to harmonize its health, safety, and environmental regulations with those of its southern neighbor. It has been argued by some while the

standardization of technical rules will yield additional trade, it could also result in more creative ways to erect new trade barriers. When these barriers come down, market forces will produce losers who will look to their governments for help to cope with this new economic situation and add even more technical regulation. (Doern and Tomlin, 1992, pp. 75-76.)

C)Tariff Removals concerning Special Categories of Goods

Chapter Seven went well beyond the GATT agreements prior to the end of the Uruguay Round in its treatment of agricultural products. This was highly significant particularly when seen against the backdrop of the U.S.-EC battle over the use of farm subsidies. Both countries realized that farm subsidies had to be addressed because of their trade-distorting nature. The CAFTA forbids each country from providing export subsidies to farmers selling their product in the other. Canada will not be able to maintain rail subsidies on grain exports going to the U.S. through its western ports under Article 701. The U.S. will exempt Canada from meat import restrictions, allowing Canadian beef and pork producers complete access to the American market. In return, Canada will allow more chicken, turkey, and egg imports. Agricultural tariffs like other tariffs will be phased in over ten years. There is one exception. Under Section 702; Canada is allowed to keep its tariffs of up to 22.5% on fruits and vegetable for up to twenty years, however this provision will apply only if the average acreage cultivated by fruit and vegetable producers is constant or declining. Canada's agricultural marketing boards, which fix the supply and prices of goods like eggs, milk, poultry, and beef

will remain untouched. However, critics predict that the boards will come under pressure from Canadian food processors to change the ground rules so the processors can buy food more cheaply in a bid to compete with the more efficient American companies. (Dowling and Kennedy, 1987; p. B4.)

Chapter Eight was included to appease the wine farmers primarily in Ontario, but also in British Columbia. It provides for the reduction of barriers to trade in wine and distilled spirits. The specific measures covered listing, pricing, distribution practices, and labeling requirements affecting distinctive products. The objective of this chapter is to provide equal treatment for Canadian and American wine and distilled products in each other's markets. Canada will, as a result, enjoy greater access to a wide variety of California wines at competitive prices. The brewing industry is not covered by this chapter. The chapter specifies that measures concerning listing (Article 802) for sale of wine and distilled spirits are to be transparent (clear), must treat each country's products in the same way and must be based on the same normal commercial considerations. With respect to pricing, the agreement provides that provincial liquor boards in Canada can allow the stores selling wines or distilled spirits to charge the additional cost of selling the imported product. Article 803 allows for differential charges on wine. These charges must, however, be reduced over a seven-year period from 1989 through 1995 (See Table 2). The method for calculating the proper differential is specified. Charges on distilled spirits which exceed the proper differential are to be reduced

immediately when the CAFTA comes into force. All other discriminatory pricing measures are to be eliminated immediately. Grape growers in Ontario and British Columbia were the hardest hit by this provision. They were the only group that was offered adjustment assistance during the transition to freer trade.

Canada has agreed to eliminate any measure requiring that distilled spirits imported in bulk from the United States be blended with Canadian spirits. This chapter (Article 806) provides for mutual recognition of Canadian whiskey and U.S. Bourbon whiskey as distinct products. This means that the U.S. will not allow the sale of any product as Canadian whiskey unless it has been manufactured in Canada in accordance with Canadian laws. Canada will not permit the sale of any product as Bourbon whiskey unless it has been manufactured in American in accordance with U.S. laws.

TABLE 1

Markup on American-made wine*

Date	Reduced Markup
January 1, 1989	$1.44
January 1, 1990	$.95
January 1, 1991	$.76
January 1, 1992	$.57
January 1, 1993	$.38
January 1, 1994	$.19
January 1, 1995	None

* Based on typical markup of Canadian $1.91
Source: THE OTTAWA CITIZEN. October 1, 1987; p. B1.

Chapter Nine covers energy. In the past fifteen years, bilateral trade in energy has assumed increasing importance to Canadians. Canada exports more than $10 billion in energy products annually including oil, gas, electricity and uranium. Billions more are exported in the form of downstream products made from oil and gas derivatives. Some of these exports were limited or threatened by U.S. restrictions and regulatory actions with respect to exports of Canadian uranium and natural gas and import fees on crude oil. Chapter nine reproduces some of the provisions of chapter Four as they relate to the energy industry. The two countries agreed to eliminate export restrictions, import fees, and discriminatory pricing arrangements that blocked the free flow of energy across the border. All tariffs on oil and petrochemicals will be removed over a five year period. Canada may reduce the export of oil, gas, electricity, or coal to the United States in times of energy shortage, but it must impose the same cutbacks in both countries. Article 904 provides that in time of emergency, each country will continue to get the same share of the oil supply it received during the most recent 36 months. The U.S. has also agreed to end its total embargo of exports of Alaskan crude oil and allow Canadians to import up to 50,000 barrels a day. These commitments are described in Annex 902.5.

Article 903 on export taxes restates the obligation of chapter Four not to impose a tax or charge on exports unless the same tax is applied to energy consumed domestically. Under Annex 905.2, Canada will eliminate one of the three price tests which the National Energy Board (NEB) applies to exports. By using these tests, the NEB assesses

whether all costs have been recovered, whether the offered price would be less than the cost to Canadians for equivalent service, and whether the offered price would be materially less than the least cost alternative for the buying entity. National treatment tests will require the U.S. to give such Canadian utilities as British Columbia Hydro and Hydro Quebec the same access to power transmission lines as it gives to American utilities. Article 907 provides for a tighter national security exception than those contained in the GATT and the CAFTA as a whole, while Article 908 indicates that the provisions of the "Agreement on an International Energy Program", which govern trade in oil during tight energy supply situations, take precedence over the provisions of chapter nine.

Chapter Ten addresses issues that are unique to the auto industry. The automobile industry is the key to Canadian manufacturing and the trade flow between the two countries it generates is enormous. Autoworkers on both sides of the border have been beneficiaries of the Auto Pact. The free and secure access to the American market provided by the 1965 agreement remains intact under the CAFTA. Chapter Ten provides that all the safeguards and value-added commitments remain in place for the "Big Three" auto manufacturers. Section XVII of Annex 301.2 provides that all vehicles traded under the CAFTA will be subject to rules of origin. Under the Auto Pact, qualified producers can import vehicles and parts duty-free into Canada from anywhere in the world. 50% of the direct production costs of any auto traded under this agreement will have to be incurred in the two countries to qualify for duty-free treatment. Under the previous rule governing

exports to the U.S., overhead and other indirect costs were included in the 50% requirement. The new rule is the equivalent of a 70% requirement on the old basis. To meet this test, assemblers will have to source more parts in North America.

Chapter Ten provides that each country will attempt to administer the Auto Pact in the best interests of both. Article 1002 specifies that Canada will not increase the number of Canadian manufacturers operating under the Auto Pact and comparable agreements as of the entry into force of the CAFTA. Waivers or remissions committed priod to the Agreement's entry into force and tied to the value added in Canada, other than for manufacturers qualifying under the Auto Pact, are to be terminated by 1996. Article 1003 provides for the phased elimination of the used car embargo that Canada had previously employed. By 1993, any used automobile will be eligible for import from the U.S.

Chapter Eleven allows the two governments to temporarily impose restrictions (such as quotas and surcharges) otherwise inconsistent with the Agreement to deal with surges in imports causing serious injury to domestic producers. The ability to impose such restrictions is often the key to gaining acceptance for the trade liberalizing aspects of an Agreement. Under Article 1101, for the transition period (until the end of 1998), either country may respond to serious injury to domestic producers resulting from the reduction in tariff barriers under the CAFTA with a suspension of the duty reductions for a limited period of time or return to the MFN tariff level. No measure can last more than three years or extend beyond December 31, 1998, except with

the consent of both parties. Article 1102 gives both countries the ability to exempt each other from global actions covered by GATT Article XIX except where the other's producers are important contributors to the injury caused by a surge of imports from all countries. For greater certainity and in order to help guide determination by each country's courts as to whether or not the other is contributing importantly to any injury justifying a global measure, Article 1102 contains specific thresholds. Imports below 5% of total imports will not generally be considered to be substantial and will be excluded from any action. Imports above ten percent are considered substantial and are to be examined further to see whether they are an important cause of the serious injury from imports. Any dispute as to whether conditions for imposing a bilateral measure have been met will be subject to binding arbitration after the action has been taken under Article 1103.

Chapter Twelve which builds on the preceding chapter allows certain exceptions for trade in goods. These exceptions recognize that governments must retain some freedom of action to protect their legitimate national interests. In essence, such freedom of action constitues a buffer without which binding international agreements could not be concluded. For the part of the CAFTA dealing with trade in goods, the two governments agreed to incorporate the provisions of GATT Article XX and the grandfather provisions of the GATT's Protocol of Provisional Application.

GATT Article XX allows import and export controls, otherwise prohibited by the Agreement. The measures allowed are

those:

1)necessary to protect public morals (such as prohibitions on trade in pornographic material);

2)necessary to protect human, animal, or plant life or health (such as measures to protect the environment or endangered species);

3)relating to trade in gold and silver;

4)necessary to ensure compliance with domestic laws and regulations not otherwise inconsistent with the GATT (such as product standards);

5)relating to the products of prison labor (producers should not have to compete with goods produced with prison labor);

6)necessary to protect national treasures of artistic, historic, or archaeological value; and

7)undertaken in pursuance of an international commodity agreement (such as international wheat or tin agreement).

GATT's Protocol of Provisional Application was the instrument used by the original twenty-three signatories to bring the GATT into force. The signatories agreed that they would fully accept certain obligations insofar as they were not inconsistent with existing legislation on January 1, 1948. The most important policy in the Protocol allowed to remain in place is the U.S. Jones Act which provides protection for the American marine industry. (Article 1203 contains a number of miscellaneous exceptions with respect to the trade in goods.) In addition, East Coast Canadian provinces are allowed to maintain existing provincial controls on the export of unprocessed fish. Both Article XX and the Protocol allow

Canada to keep policies aimed at upgrading these resources before they are exported. In addition Article 1204 grandfathers, subject to each Party's GATT rights, existing practices respecting the internal sale and distribution of beer.

Chapter Thirteen marks new progress in expanding market opportunities for companies that supply goods to governments. The chapter broadens and deepens the obligations both countries have undertaken under the GATT Code, committing each to the multilateral liberalization of government procurement and to the negotiation of further improvements in the CAFTA once multilateral negotiations are concluded. It was mainly the Canadians who pressed for progress on this issue. The huge American market for government contracts looked very enticing to Canadian negotiators. Although U.S. negotiators during the middle phases of the talks favored extensive liberalization, in the end they pulled back. Had they wished to go further, the Canadians would have faced their own problems with their provinces and programs that affected regional development. (Doern and Tomlin, 1992; pp. 84-86.)

Article 1304 allows for increases in the amount of procurement open for competition between Canadian and American suppliers in each other's markets. It lowers the threshold from U.S. $171,000, under the GATT Code, for purchases by Code-covered entities of covered goods, to U.S. $25,000. All government purchases above this new threshold are open to competition unless they are reserved for small business or excluded for national security reasons. It establishes jointly agreed principles, contained in Annex 1305.3, governing bid-challenge

procedures to ensure equitable and effective treatment of potential suppliers. An impartial reviewing authority will investigate situations where suppliers believe that they have been unfairly treated and will ensure a timely decision. There are detailed provisions for the regular exchange of government procurement information covered under Article 1306. This will enable the parties to carry out careful monitoring of the implementation of the chapter on an annual basis and will assist them in resolving problems and providing the foundation for further GATT and bilateral negotiations. Finally, under Article 1308, national security exceptions to purchasing by government agencies are listed. Canada's access to U.S. defense procurement of military goods under the Defence Production Sharing Arrangements is not affected by this chapter.

The CAFTA was the first trade agreement to address the service question in any meaningful way. Under Chapters Fourteen and Fifteen national treatment principles are extended to a list of commercial services. At the same time, existing laws and practices are grandfathered, but they cannot be made more discriminatory. The temporary entry of business persons under Chapter Fifteen was made easier with the passage of the agreement.

Article 1402 exempted health, education, and social service workers in order to honor the Canadian government's promise not to harm Canadian social programs. The transportation sector was also excluded because of a fierce lobbying campaign by U.S. maritime transport unions and firms, which feared competition from more efficient Canadians operating in the Great Lakes region. (Doern and

Tomlin, 1992, pp. 86-87.) The new general rules adopted for trade in services were a trail-blazing effort that could lay the foundation for further work in the multilateral arena.

Chapter Sixteen helps investment flow more freely between the U.S. and Canada and assures that investors will be treated in a fair and predictable manner. With American companies controlling 80% of foreign direct investment stock in Canada, and with three-quarters of Canadian direct investment abroad in America, each is the other's largest investment partner. Investment ties are increasingly supported by technological links, joint ventures, and strategic partnerships in bilateral trade and investment relations. (Hart, 1992, p. 81.)

The basic obligation is to ensure that the future regulation of Canadian investors in America and U.S. investors in Canada results in treatment no different than that extended to domestic investors in each country. This principle is qualified on the basis of existing practice and is translated into a number of specific undertakings. Article 1602 allows for national treatment on the starting up of new businesses. Article 1602 and Article 1607 contain more liberal rules for the acquisition of existing businesses. Canada retains the right to screen the acquisition of firms in Canada by U.S. investors, but has agreed to phase in higher threshold levels for direct acquisition. The United States has almost no barriers to investment except those that are national-security related. Article 1607 provides that the review threshold for direct acquisitions will be raised in four steps to CDN $150,000 million by 1992. At that time, about three-quarters of total non-financial assets now reviewable will still be reviewable.

For indirect acquisitions, which involve the transfer of control of one foreign-controlled firm to another, the review process will be phased out over the same period. These changes in the Investment Canada review process do not apply to the oil, gas, and uranium sectors. Article 1603 sets limits on some performance requirements. Both countries have agreed to prohibit investment-related performance requirements (such as local content and import substitution requirements). Article 1605 requires due process for any expropriation of private property and compensation based on fair-market value. The freer flow of investment across the border should stimulate the creation of new jobs and wealth in both Canada and the U.S. The new investment environment will ensure that adjustment and economic growth proceed in an efficient manner, but one which is also sensitive to the needs of individuals, geographical regions, and sectors.

The U.S. had been much more hospitable to foreign banking and was thus the "demandeur" on the issue of financial services. It was aided by growing international economic and technological pressures to deregulate banking and break down the barriers between banking and securities. The Canadian and U.S. banking systems were quite different in their basic structures and the way in which they were regulated. Canada had a highly centralized system of big branch banks governed primarily by the federal government. On the other hand,the U.S. system was highly decentralized, with a state-regulated system ultimately stitched together by the federal Glass-Steagall Act that came out of the 1930s-era depression. (Doern and Tomlin, 1992, pp. 90-91.)

Chapter Seventeen recognizes the rapid internationalization of

financial markets. The provisions in this chapter are a finely-crafted set of trade-offs required by the different conditions prevailing in the two countries. Prior to 1978, Canadian and other foreign banks were generally permitted to operate in more than one American state. A number of Canadian banks have had and still have banking operations in a number of states, unlike many of their American competitors. These privileges, however, have been grandfathered indefinitely in Article 1702. Furthermore the CAFTA gives Canadian banks in the U.S. the right to underwrite and deal in the securities of Canadian governments and their agents. Because the Glass-Steagall Act separates commercial banking from the securities business; before the CAFTA only dealers unaffiliated with a bank could underwrite these securities in the U.S. Thus a new business opportunity for Canadian financial concerns has been created. In the future, Canadian banks will receive the same treatment as that accorded U.S. financial institutions with respect to amendments to the Glass-Steagall Act.

Article 1703 exempts U.S. firms and investors from some aspects of Canada's federal "10/25" rule. The rule prevents any single non-resident from acquiring more than 25% of the shares of a federally-regulated Canadian financial institution. The 10% limitation on any individual shareholder resident or non-resident will continue to be applied to the larger banks thereby guaranteeing Canadians control of their financial system. In addition, U.S. subsidiaries in Canada will be exempted from the current 16% ceiling on the size of the foreign bank sector. All U.S. applications to establish operations

in Canada will be subject to review. They will be reviewed on a case-by-case basis to ensure that the applicant is suitable, and that the applicant can make a positive contribution to Canada's financial markets and that prudential concerns are met. Financial institutions, other than insurance companies are not covered by the dispute settlement procedures of the CAFTA. Finally both Parties have agreed that the Canadian Department of Finance and the U.S Treasury Department will undertake consultations with respect to the above issues.

D)Dispute Settlement

Chapters Eighteen and Nineteen deal with institutional mechanisms for settling disputes. Chapter Eighteen covers the general mechanisms for everything except financial services, anti-dumping and countervailing duties. The latter two are dealt with in Chapter Nineteen. Thus the great majority of the CAFTA provisions are governed by Chapter Eighteen, which builds extensively on dispute settlement procedures provided for under the GATT. This chapter provides for:

1)notification and information provision (Article 1803);

2)consultations (Article 1804);

3)referral if necessary to a Binational Commission, should resolution through consultations fail (Article 1805); and

4)use of dispute settlement procedures should the Commission fail to arrive at a mutually satisfactory resolution. The Procedures are:

a)compulsory arbitration, binding on both parties, for disputes arising from the interpretation and application of the safeguards

provision (Article 1103);

b)binding arbitration in all other disputes (Article 1806) where both parties agree; and

c)panel recommendations to the Commission, which, in turn, is mandated to agree on a resolution of the dispute (Article 1807).

The Binational Commission is composed of an equal number of representatives from each party. The principal representative of each party is the ministerial rank official responsible for international trade matters, or his or her designee. Regular Commission meetings are held once a year, alternating between the two countries. As a practical matter, the day-to-day operation of the Commission will be in the hands of officials of the two governments responsible for individual issues acting as working groups mandated by the Commission. Members are selected by a Commission on such terms and in accordance with such procedures as it may adopt. Panels are composed of two Americans and two Canadians, and a fifth member chosen jointly. Panelists are generally chosen from a roster developed by the Commission. Each Party chooses its national members, while the Commission chooses the fifth member. If the Commission is unable to agree on a choice, the other four members choose; should that fail, the fifth member is selected by lot.

In Chapter Nineteen, the two governments agree that in order for both sides to take advantage of the benefits of the CAFTA, there will be a need for conditions of fair competition to ensure that economic actors on both sides of the border have equal access to the whole free-trade area. This will be achieved in three ways. They are:

1)the development over a five- to seven-year period of mutually advantageous rules governing government subsidies and private anti-competitive pricing practices such as dumping, which are now controlled through unilateral application of countervailing and antidumping duties;

2)bilateral review of any changes in existing countervailing or antidumping laws and regulations for consistency with the GATT and the object and purpose of the Agreement; and

3)the replacement of judicial review by domestic courts of countervailing and antidumping final orders by a bilateral panel.

Article 1907 provides that both countries will work toward establishing a new regime to consider problems like subsidization. It will come into effect no later than the end of the seventh year following the adoption of the agreement. During the course of the negotiations, the two sides recognized that developing a new regime was a complex and difficult task which would require more time. It would involve creating an authority that would be sanctioned by the GATT Antidumping and Subsidies Codes. It would involve developing new rules on subsidy practices, while relying on domestic competition law. The goal of the two governments remains the creation of a new administrative structure to replace current trade dispute remedies well before the end of the transition period. The lists on Table 3 will help explain to the reader current U.S. trade-remedy law.

In general the provisions of Chapters Eighteen and Nineteen institutionalize the Canadian-American relationship to an unprecedented extent. They profoundly change the nature of

decision-making in Canada, and to a lesser degree in the United States. The Chapter Nineteen provisions were at the center of Canadian demands. They were also at the core of a fundamental paradox that marked Canada's position in the negotiating process. Getting the U.S. to agree to a subsidies code was central to the Canadian strategy. However, if the strategy had succeeded, it probably would have undermined the government's ability to sell the agreement in Canada. By retaining the subsidies for regional development in the provinces, the pro-CAFTA forces in Canada were able to keep their coalition together. (Doern and Tomlin, 1992, p. 96.)

TABLE 2
Principal U.S. Trade-Remedy Laws

Statute	Focus	Criteria	Available Remedies	Admin. Authorities
Sec. 201 ("escape clause")	injurious imports	increasing imports are a substantial cause of serious injury	duties; quotas; tariff-rate quotas; adjustment assistance; orderly marketing arrangements	USITC President[a]
Sec. 701	subsidized imports	material injury[b]	countervailing duties	USITC ITA
Sec. 731	dumping (selling at less than fair value)	material injury	antidumping duties	USITC ITA
Sec. 301	violations of trade agreements	actions are unreasonable, unjustified or discriminatory	"all appropriate and feasible action"	USTR President
Sec. 337	unfair trade practices (for example, trademark or patent infringement)	actions destroy or substantially injure an industry.	exclusion orders; cease and desist orders	USITC President
Sec. 338	foreign country discrimination	burden or disadvantage US commerce	increase duties, exclusion	President
Sec. 22	agricultural imports below US prices	material interference with price support programs	import fees quotas	USITC USDA President
Sec. 406	disruptive imports from communist countries	significant cause of material injury	duties quotas	USITC President
Sec. 332	any trade irritant	effect on US industry	investigation	USITC
Sec. 232	increasing imports	threat to national security	investigation range of restrictive measures	Commerce President

ITA: International Trade Administration of the US Department of Commerce
USDA: US Department of Agriculture
USTR: Office of the US Trade Representative
USITC: US International Trade Commission
a. The Congress may override the President.
b. The material injury test is only extended to countries that fulfill certain conditions.

E)Miscellaneous and Final Provisions

Chapter Twenty contains a range of miscellaneous provisions. Some deal with specific issues such as intellectual property (Article 2004) and cultural industries (Article 2005), while others establish general rules which affect the applications of other chapters in the Agreement (Article 2002).

In Article 2002, the two governments affirm their rights and obligations under the GATT, the International Monetary Fund (IMF), and the Organization for Economic Cooperation and Development (OECD) Code of Liberalization of Capital Movements with respect to balance-of-payment measures. In effect, the two governments agree that should either find it necessary to apply exchange controls or take trade actions (such as a surcharge or a quota) to counteract a serious deterioration in its balance-of-payments position, it would do so in a manner consistent with these multilateral agreements. Article 2003 reproduces the standard national security clause of the GATT which applies to the rights and obligations in all but two chapters: energy and government procurement. In Article 2004, the two governments agree to continue to cooperate and work toward better international intellectual property rules, particularly in the Uruguay Round of Multilateral Trade Negotiations where a working group on trade-related intellectual property issues existed.

From the beginning of the negotiations, Canadians expressed concern that the agreement might erode the government's capacity to encourage and help Canada's cultural industries (film and video,

music, publishing, cable transmission and broadcasting) and thus to contribute to the development of its own unique culture. The two countries agreed in Article 2005 on a specific provision declaring, with four limited exceptions, that nothing in the CAFTA affects the ability of either Party to pursue cultural policies. The specific exceptions are:

1)the elimination of tariffs on any inputs to, and products of, the cultural industries, such as musical instruments, cassettes, film, recording tape, records and camera (Article 401);

2)any requirement to sell a foreign-owned enterprise engaged in a cultural activity acquired indirectly through the purchase of its parent will be balanced by an offer to purchase the enterprise at fair open market value (paragraph 4 of Article 1607);

3)both Parties will provide copyright protection to owners of programs broadcast by distant stations and re-transmitted by cable companies; this undertaking will be on a non-discriminatory basis; after Canadian legislation is implemented there will be an opportunity for further review of outstanding issues in both countries (Article 2006); and

4)the requirement that a magazine or newspaper must be typeset and printed in Canada in order for advertisers to be able to deduct their expenses for advertising space in that magazine will be eliminated (Article 2007).

Articles 2008 and 2009 deal with the softwood lumber conflict. In Article 2008, both countries address the long-standing irritant involving plywood standards. A series of tariff concessions to deal with the problem were to be implemented on January 1, 1989. In Article

2009, the two governments agree to grandfather the 1986 Memorandum of Understanding on Softwood Lumber. That memorandum provided that Canada would apply a tax on the export of softwood lumber to the U.S. until such time as the producing provinces had adjusted certain stumpage practices.

In Articles 2101 and 2102, the two governments agree to exchange the necessary statistical information to facilitate implementation and administration of the CAFTA. This final chapter provides for annexes (Article 2103) and amendments (Article 2104) and the duration and entry into force (Article 2105) of the Agreement. The CAFTA will remain in effect indeterminately. Due to a provision in the U.S. fast-track approval procedures, any agreement brought forward under its provisions must contain a six-month termination clause and so such a clause is included in the CAFTA (Article 2106). Finally, during the implementation of the agreement in domestic law, the two parties will explore whether it will be possible to extend this time period in order to give producers on both sides of the border more certainty before they make the neccessary investment decisions to take advantage of the CAFTA.

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PART IX: IMPLEMENTATION AND RESULTS TO DATE

In Part IX, I shall address the implementation of the CAFTA and problems that have arisen since its passage. The first section will be concerned with general implementation issues. The second will deal with internal institutional differences between the U.S. and Canada. The next section will concern the binational panels formed as a consequence of the CAFTA and will highlight the more controversial decisions that these panels have handed down. Finally I shall look at current problems and give a tentative assessment of the CAFTA.

A)Implementation

1)Trade volume increases

The negotiating and passage of the CAFTA was just the beginning for the new relationship between the U.S. and Canada. The implementation of the this bilateral agreement will be an ongoing process for years to come. That process will touch on economic, social, and political sensitivities in both countries. The U.S. generally views the CAFTA as a trade agreement or economic document. On the other hand, the Canadians see if as creating a new relationship with their southern neighbor. In their view it has a bearing on all bilateral issues, whether economic or not. Consequently, the sucesss of the CAFTA will be measured not only by "objective" economic criteria, but also by more "subjective" political criteria as the implementation proceeds. (Leyton-Brown, from Morici, 1990, p. 27.)

Canada has long been the United States' largest trading partner,

and the CAFTA creates the world's largest and most comprehensive bilateral free trade area. The agreement went into effect January 1, 1989. That year bilateral trade in goods reached $167 billion, an increase of 9% over 1988, while goods and services combined exceeded $200 billion. In 1990, trade in total goods and services exceeded $212 billion, despite a general slowdown in both economies. Due to a world-wide recession, merchandise trade for the first three quarters of 1991 was at the same level as it had been in the comparable period in 1990, or $131 billion. Trade in services grew from a bilateral total of $14.8 billion in 1987 to $20.2 billion in 1990 or a 36.5% gain. U.S. direct investment in Canada also grew from $57 billion in 1987 to $71 billion in 1990, a 24.6% increase. Canadian investment in the U.S. increased 50% in this same period, from $22 billion to $33 billion. As of this writing, 1992 figures have not been completed, but small gains are predicted despite the severest recession in Canada since the 1930s. (USTR, 1992, pp. 61-62.)

The CAFTA has demonstrated that it is both possible and profitable for countries to liberalize trade in many areas. Before the CAFTA was ratified, approximately 80% of the trade between the two countries was essentially duty-free and with its passage essentially all such trade will be duty-free within ten years. Over time the agreement should stimulate growth, boost incomes, and increase the competitiveness of firms in both nations. Generally speaking, the implementation of the CAFTA has proceeded smoothly during the first four years, but implementation has not without some hitches. With so much trade taking place along a 5000-mile border, it is not surprising that

there have been some problems. I shall deal with them in later sections.

Traders and investors on both sides of the border have moved to take advantage of the numerous opportunites opened by the progressive reduction and elimination of trade barriers. Duties on $3 billion worth of trade were eliminated immediately on January 1, 1989, and other initially negotiated tariff reductions have since been implemented annually on the first of January. The first two rounds of acclerated tariff reduction produced agreements of almost $8 billion. In late 1991, the Bush administration initiated a third round of trade liberalizing schemes that exceeded $10 billion in 1992. Other tariffs on industrial and agricultural products have been progressively reduced according to the agreed upon schedules in the agreement. Barriers in the areas of agriculture, investment and financial services, energy, and cable retransmission have been reduced. (USTR, 1992, p. 62.)

The elimination of tariffs and other trade barriers between the two countries has not only been good for both economies, but also for international trade liberalization in general. The CAFTA's generally successful implementation has provided an example for multilateral as well as other trilateral negotiations like the NAFTA, which was concluded in the fall of 1992. The CAFTA and the subsequent NAFTA very likely put further pressure on the international community to conclude the Uruguay Round of the GATT talks.

2)Working groups

The tariff working group was charged with negotiating the

acclerated elimination of tariffs. Its activities are private sector driven. Representatives from different industries make recommendations to various governmental bodies (discussed in the next section) regarding which tariffs they want eliminated and how fast. These tariffs are in areas which the CAFTA has not specifically provided for in its annnexes. After the conclusion of the working group's negotiations, the CAFTA requires the submission of reports to the House Ways and Means and Senate Finance committees in the U.S. and to the Minister of External Affairs in Canada.

Several other working groups were put together to tackle a number of issues that the two countries did not settle in the CAFTA, but will attempt to settle in the future. These other working groups have been dealing with agriculture, automobiles, customs matters, rules of origin, and subsidies. All of these working groups have been meeting on a regular basis to address issues regarding the administration of the CAFTA. The most contentious of all the working groups has been the one on "subsidies."

Chapter 19 requires the two nations to agree within seven years on rules to govern the use of subsidies and countervailing duties, and on antidumping measures. Working groups in each country have been established for this purpose and have met at least once annually to address these complex issues. Both governments have been developing an inventory of subsidy practices at the federal and state/province levels. In addition, domestic consultations with interested parties in both nations have been undertaken. Both governments also agreed to follow developments in the Uruguay Round

negotiations and to take account of the results. The procedures used to address the problem of determining what constitutes a subsidy is modeled after the Horlick-Stegar proposal mentioned in the literature review. In the absence of agreement on a joint definition of "subsidies" and rules regarding what subsidies are allowable under what circumstances, binational panels will rule on whether final countervailing duties are appropriate. The establishment of this working group represents an attempt to accommodate political opponents and to face realistically the complicated and technical nature of the issue being dealt with. (Horlick and Stegar, from Morici, 1990, pp. 84-85.)

B)Internal Institutional Differences

1)The U.S.-Canada Trade Commission

The CAFTA's central bilateral oversight institution is the U.S.-Canada Trade Commission established under chapter 18 of the agreement. It is chaired jointly by the USTR and the Canadian Minister for International Trade. The Commission held six meetings in the first four years following the creation of the CAFTA. It is responsible for overseeing the implementation and further elaboration of the agreement, as well as for the dispute settlement. The Commission has established several working groups and advisory bodies to consider ways to facilitate the CAFTA's implementation and to examine unresolved issues. After the June 9, 1992, meeting both countries instituted a quarterly review of the bilateral trade agenda, chaired by senior representatives from the two countries, as a means of

further enhancing the effective administration of the trading relationship between formal Commission meetings. The reviews have proven beneficial to both countries in moving current and outstanding issues toward resolution. This process has provided a forum for further negotiation and the mutually advantageous liberalization of the bilateral economic relationship. (USTR, 1993, pp. 83-84.)

2)Assymetry produces different institutional arrangements

Differences between the philosophies and operational styles of the two countries have resulted in the creation of varying institutional mechanisms for implementing the CAFTA. The trade negotiations were conducted on the American side by a small negotiating team drawing on the expertise of a number of federal agencies, while the Canadians pooled all of their resources into a large superagency, the Trade Negotiations Office (TNO.) The TNO was given a large budget and Simon Reisman was allowed to pick his staff from a wide variety of governmental agencies in Canada. Reisman was paid $1000/day and assembled a staff of over a hundred people to back Ottawa in the negotiations. (Doern and Tomlin, 1992, p. 40.) This difference between the two countries' approaches to the negotiations was reflected in the subsequent institutional structure within each country. The consequence is reminiscent of the findings in the literature on complex interdependence enunciated by Keohane and Nye. The allocation of bureaucratic resources to biltaral issues tends to mirror the asymmetrical differences between the two countries. More numerous and senior personnel in Canada than in the U.S. are devoted to the Canadian-American relationship. The larger commitment of

personnel by the Canadian camp serves to offset the asymmetry of power. (Leyton-Brown, in Morici, 1990, p. 33.)

The bureaucratic resources committed by the U.S. government are small and dispersed, and at some point in the implementation process this could result in bureaucratic rivalries. The key figure, as mentioned earlier in this disuccusion, is the USTR. Within his office a small core unit coordinates the activities of a whole serices of interdepartmental and interagency groups, which maintain liaison and formulate policy. The permanent secretariat called for in chapter 19 is located within the Department of Commerce. This secretariat is responsible for administrative matters related to the operation of the binational dispute settlement panels and committees, but does not have a policy function. The fundamental U.S. economic policymaking instrument continues to be the Economic Policy Committee, chaired by the Secretary of the Treasury. The State Department is concerned with the overall management of the Canadian-American relationship, but since the agreement is an economic one the Treasury Department has a major role to play as well. There is obviously a great potential for bureaucratic infighting took place among the various agencies involved and this could worsen with a new Democratic administration in Washington that had nothing do with the negotiations or passage of the CAFTA.

In Canada, the Department of External Affairs (DEA) is the lead agency involved in the Commission. The TNO was only a temporary body set up to negotiate the agreement itself, however the majority of its employees were taken from the DEA. A new branch within the DEA has

been established to take over the functions of the former TNO.

Leyton-Brown explains:

> This new branch will be structured as two bureaus (responsible for trade policy and management), each with three divisions, along with general legal counsel. The trade policy divisions will deal with trade policy vis-a-vis the United States, tariffs and market access, and trade relations (that is, day-to-day trade irritants like section 301 cases, shakes and shingles, softwood lumber, and so on). The management divisions will be responsible for federal-provincial relations and a priviate-sector liaison, free trade coordination (to ensure that other government departments do what is required with regard to FTA commitments), and the permanent secretariat called for under chapter 19. (Ibid.)

The mode of operation and interaction of the various agencies in each country will ultimately determine the impact of the CAFTA on the conduct and style of Canadian-American relations. The objectives of both countries will have to be formulated and implemented in a coherent manner, with a full recognition of the wide variety of contextual situations and arrangements across the range of bilateral issues. There will have to be coordination on both sides of the 49th parallel between the competing government agencies. Supervision will be necessary to prevent the agencies from acting according to their own bureaucratic agendas instead of the interest of the governments that employ them. The potential for conflict among the various governmental agencies in each country is considerable and the exercise of strong leadership at the top will be needed to ensure that bureaucratic in-fighting that can occur does not damage overall Canadian-American relations.

C)Dispute Settlement Mechanisms

The dispute settlement procedures contained in Chapters 18 and 19

are some of the more innovative and important aspects of the CAFTA. Chapter 18 provides for panels of independent experts to review disputes between the U.S. and Canada and also to make recommendations to the parties in accordance with the CAFTA provisions. Chapter 19 provides for binational panels to review anti-dumping and countervailing duty determinations. A chronology of all Chapter 18 and 19 cases appears in the Appendix. The advent of the CAFTA provides the two countries with the choice of resolving trade complaints by means of either the GATT or the CAFTA. The choice of forum depends upon a number of factors including the need for a speedy resolution, the nature of panel decisions under each process (binding or non-binding), the perception of relative fairness of the two systems and the presence of political support from other countries.

With respect to timeliness, the CAFTA's strict time limit for each stage of dispute settlement in the case of both Chapter 18 and 19 trade disputes would lead one to argue in favour of these procedures. The time limits for GATT procedures were greatly tightened at the mid-term meeting of the Uruguay Round. However, both the U.S. and the EEC have already violated the new rules by delaying permission for the formation of dispute settlement panels in a number of cases. Furthermore, under the new GATT procedures unlike the CAFTA procedures, it remains possible for one country to block adoption of a dispute settlement panel report. (Chapman, 1992, p. 8.)

The CAFTA marked an important step in making it easier to avoid and resolve disputes. Not all conflicts between governments can be classified as disputes and the dispute settlement provisions in this

agreement are aimed only at a small fraction of the trade and investment issues that regularly arise between the two countries. Most of them are routinely resolved through less formal means. To ensure that such issues do not escalate into disputes, the agreement contains a variety of notification and consultation requirements. In addition, the Canada-U.S. Trade Commission helps in managing the trade relationship and keeping things from getting out of hand. (Hart, 1992, p. 85.) Eric Pelletier, Canadian Consul with the Atlanta bureau, suggested that:

> Regarding institutional arrangements, a more stable and predictable trading environment is steadily emerging. The dispute resolution mechanisms are working as they were intended to work. We have not won every case but neither have we lose every one. The main thing is that we now have an agreed and workable process to address trade irritants in an orderly and coherent way. The system works, and is a great improvement over what went before, but further improvements leading to more rapid solutions of disputes remain a major Canadian goal in the current tri-lateral (NAFTA) negotiations. The current time for resolving disputes under the FTA has been cut in half. (Interview with Pelletier, 1992.)

Chapter 18 establishes the necessary institutional provisions to provide for the joint management of the CAFTA and helps the countries to avoid and settle disputes. Its essential features are economy, joint decision-making, and effective dispute resolution. Its basic objective is to promote fairness, predictability, and security by giving each partner an equal voice in resolving disputes and promoting authoritative interpretations of the CAFTA. This chapter establishes means of avoiding and settling disputes except those related to trade remedies and financial services. It provides for:

1)mandatory notification of any measure (Article 1803);

2)mandatory provision of information to the other party on any

measure, whether or not it has been notified (Article 1803);
3)consultations at the request of either party concerning any measure or any other matter which affects the operation of the agreement, with a view to arriving at a mutually satisfactory resolution (Article 1804);
4)referral to a Canada-U.S. Trade Commission, should resolution through consultations fail (Article 1805); and
5)use of dispute settlement procedures should the Commission fail to arrive at a mutually satisfactory resolution. Procedures are:
a)compulsory arbitration, binding on both Parties, for disputes arising from the interpretation and application of the safeguards provision (Article 1103);
b)binding arbitration in all other disputes (Article 1806) where both parties mutually agree; and
c)panel recommendations to the Commission, which, in turn, is mandated to agree on a resolution of the dispute (Article 1807). (The Canadian-U.S. Free Trade Agreement, 1988, p. 258.)

Panel members are chosen from a roster selected by the two governments. They are lawyers, judges, and trade experts not currently on the payroll of either government. There is a strict conflict of interest requirement that each prospective member must meet. The panels are composed of five members: two Canadians, two Americans, and a fifth member chosen jointly. If the Commission cannot agree on the fifth member, the other four members select him; should that fail, the fifth member is selected by lot. Panels are allowed to establish their own rules of procedure, unless the Commission chooses otherwise. There

is a right of at least one hearing before the panel and the opporutunity to provide written submissions and rebuttal arguments. These meetings are confidential and are subject to strict time limits.

Findings by one of these panels are binding on both governments. Should a panel determine that the law was properly applied, the matter is a done deal. On the other hand, if it finds that the administering authority (Department of Commerce or the International Trade Commission in the U.S. or the Department of National Revenue or the Canadian Import Tribunal in Canada) erred on the basis of the same standards as would have been applied by a domestic court, it can send the issue back to the administering authority to correct the error and make a new determination. (Hart, 1992, p. 87.)

The first four years of the CAFTA indicate that the dispute settlement sections of Chapter 18 are working quite well. Within the first three years the panels dealt with two cases dating from the 1980s involving an American complaint about Canadian landing requirements for west coast salmon and herring and a Canadian complaint concerning U.S. prohibition of imports of lobsters below a certain size. The procedures chosen involved recommendatory panels, and in both instances the panel played a major role in helping the two governments resolve politically sensitive and substantive issues. With respect to the salmon and herring issue, the panel decided that Canadian landing requirements violated Article 407, which prohibits GATT-inconsistent export restrictions. Taking into account the panel's findings, both countries negotiated an interim solution and Canada agreed to permit 25% of Canadian-caught salmon and herring to be

exported to the U.S. without landing in Canada. On the lobster question, the panel decided that the U.S. law that prohibited the marketing in interstate or foreign commerce of lobsters below the federally determined minimum size did not constitute an import restriction under the CAFTA. (USTR, 1991, pp. 76-77.) 1992 was a different story as four disputes concerning the temperature of milk, wheat pricing, non-mortgage interest, and the domestic content of a Honda Civic were brought before the Commission. These cases had not been resolved at the time of this writing. (USTR, 1993, pp. 85-86.)

Chapter 19 provides for binational panel review of countervailing duty and antidumping determinations in place of review by national courts. Chapter 19 panels are automatically established at the request of persons who would have a right to judicial review in U.S. and Canadian cases. The panels are required to apply the same law and same standard of review as would a U.S. court in U.S. cases or a Canadian court in Canadian cases. The highlights of this Chapter include:
1)the development over 5 to 7 years of rules governing government subsidies and private dumping (Article 1907);
2)the bilateral review of any changes in existing countervailing or antidumping laws and regulations for consistency with the GATT and the object and purpose of the CAFTA. (Article 1902); and
3)the replacement of judicial review by domestic courts of countervailing and antidumping final orders by a binational panel (Article 1904). (The Canada-U.S. Free Trade Agreement, 1988, pp. 267-290.)

One of the most striking results of the first four years of the

CAFTA with respect to Chapter 19 decisions is the frequent use of these remedies on both sides of the border. As of April 1, 1993, 37 panels had been convened pursuant to the provisions of this Chapter, 25 of which have their work completed. The majority of panel decisions have been unamious, although individual panelists have filed seperate opinions in some cases. Twelve cases were currently active. These involved imports of bitumunious paving equipment, live swine, softwood lumber, and magnesium from Canada and exports of beer and carpeting from the U.S. (USTR, 1993, p. 86.) Table 1 gives the reader a breakdown of the various disputes by category.

TABLE 1

Disputes by economic category

Type	Number	Percentage of Total
Industial Products	16	43%
Agriculture	8	22%
Natural Resources	7	19%
Fishing/Seafood	3	8%
Alcoholic Beverages	2	5%
Services	1	3%

One of the most interesting and contentious of the Chapter 19 cases concerns the pork dispute. It originally started in 1984 as the U.S. pork producers concluded that their Canadian counterparts had

been too successful in the U.S. market and filed a CVD complaint alleging a range of federal and provincial subsidy practices. American producers were partially satisfied when in 1985 duties were imposed on swine and not pork. Continued efforts by U.S. pork producers finally paid off when duties were imposed on pork products as well. The Canadian government announced in August 1989 that it had requested binational panel reviews and the panel remanded the U.S. decision on injury to U.S. producers back to the ITC for reconsideration of "questionable statistics." When the ITC reaffirmed the earlier injury decision, Canada requested another binational panel on the matter. On January 22, 1991, the second binational panel found little evidence of injury to U.S. producers. On February 12, 1991, the ITC reversed its earlier injury determination upon remand from the CAFTA binational panel, reluctantly finding no injury to American producers. The ITC attacked the panel's second remand decision, however, stating that it violated both U.S. law and the CAFTA. (Chapman, 1992, pp. 20-21.)

On March 29, 1991, Carla Hills on behalf of U.S. pork producers requested the establishment of an Extraordinary Challenge Committee, the last means of review provided for under the CAFTA; to review the binational panel decision on the question of injury to U.S. producers. The extraordinary challenge procedures apply if a member of a binational panel is guilty of gross misconduct, bias, or a serious conflict of interest, or if the the panel seriously departs from a fundamental rule of law/procedure or manifestly exceeds its powers. On June 14, 1991, the Extraordinary Challenge Committee dismissed the U.S. challenge to the binational panel decision. The Committee

concluded that "none of the allegations provide a basis for jurisdiction for an extraordinary challenge under the FTA...and that none of the alleged errors materially affected the Panel decision or threaten the integrity of the Panel review process under the FTA..." As a result, $20 million CDN in duties paid on Canadian pork had to be refunded. Hill's response was that the ruling shows that the free trade agreement is working. She said that the United States would stand by the Committee's ruling. "We used the rules that were in place, we got a decision and we will live with that." (MacKenzie and Fagan, 1991, pp. A1-A2.) This decision should have ended all doubts of those Canadians who thought that the U.S. would not play by the rules when they adversely affected U.S. national interest.

D)The problem of "subsidies"

A number of problems remain such as those concerning rules of origin, services inclusion, higher investment thresholds for foreign ownership, and greater harmonization of agricultural standards between the two countries, but none is so troubling as the problem of "subsidies." The five-to-seven year time frame for addressing this issue provided for in Chapter 19 will probably prove too short.

The toughest question concerns the nature of "subsidies." The GATT Susidies Code classifies subsidies in three ways:

1)those that are harmful, such as export subsidies on nonprimary products;

2)those that are lawful unless they cause serious prejudice to the export interests of exporters to third markets; and

3)those that are lawful unless they cause material injury to competitors in an importing country. (Hart, in Dearden, Hart and Steger; 1989, p.92.)

Most subsidies are thus lawful but their lawfulness may be questioned if they cause harm. Harm is a relative term. Three sorts of harm can be identified. They are:

1)"material injury"- harm in the domestic market of an importing country which may lead to a unilaterally determined and imposed countervailing duty based on GATT Article VI;

2)"nullification and impairment" of expected benefits that result in harming imports in the subsidizing country which may multilaterally authorize countermeasures to restore the balance of benefits based on GATT Article XXIII; and

3)"serious prejudice" - harm in displacing exports in third markets which may lead to multilaterally authorized countermeasures based on GATT Article XVI. (Hart, in Dearden, Hart and Steger; 1989, p. 92.)

In reality, very few practices that countries employ for domestic development are unlawful. Member states can decide unliaterally what is lawful, but there is a large grey area when it comes to determining what actually constitutes a lawful subsidy. As tariffs have declined through the various rounds of the GATT since 1948, the effects of other trade distortions have become more significant. There has been widespread concern in the two countries and the international economic community as a whole that the continued use of subsidies and other non-tariff trade barriers will undercut both the CAFTA and the GATT.

The recently concluded GATT talks considered the issue at length.

All countries subsidize a wide range of business activity, Canada and the United States are no exceptions. However, few subsidies are large enough to attract countervailing duty actions in either country. Although there have been relatively few countervailing duty cases in either country involving imports from the other, most of the cases that have arisen have been brought in the U.S. and concern Canadian goods. Not surprisingly given the structure of trade levels of subsidization, the majority of countervailing duty cases between the two countries have involved resource and agricultural products that include corn, pork, fish, red raspberries, and softwood lumber. (Horlick and Steger, in Morici, 1990; pp. 84-87.)

The working group has developed lists of the type of subsidies that each country employs with the other, along with a list that contains all subsidies which they think they currently use. There also has been some agreement on some of the things allowable subsidies utilized by the other, but not a complete list. After four years and numerous meetings, the working group on subsidies have decided that a common definition of subsidies would be impossible in the absence of a GATT or NAFTA agreement. The group decided to put their meetings on hold, until the Uruguay Round was completed. (Hart interview, 1993.) Then and only then there could be real progress on this thorny issue. Limitations on the use of subsidies would lead to corresponding limitations on the application of countervailing duties. The resolution of these two related problems would remove one of the most contentious issues between the United States and Canada and make

possible further progress in other areas. (Horlick and Stegar, in Morici, 1990; p. 98.)

E)What the CAFTA means for the future?

The CAFTA required compromises between domestic interests in both countries as well as between the governments of the U.S. and Canada. Only some of the objectives the two governments had at the outset of the negotiations have been realized. Much remains to be done. Canada would like to see more progress in the trade remedy and government procurement areas, while the U.S. would like to develop an intellectual property chapter as well as stronger provisions in the investment area. The U.S. concerns fall in line with its multilateral strategy of gaining ground in these areas together with reaching some type of meaningful agreement on services. Much of the enthusiasm expressed at the beginning of the negotiations had to be tempered due to the reality of interest group politics. (Hart, 1990, pp. 23-24.)

The CAFTA Commission that makes up the binational panels to settle disputes between the two countries is the centerpiece of the agreement. The CAFTA went beyond the GATT by establishing a strong dispute settlement mechanism without the sort of supranational institutions provided for the EEC in the Treaty of Rome. Even though the CAFTA Commission does not have the permanent bureaucratic staff that the Europeans do, it is much more than a fact-finding commission of the sort established under the GATT. The system allows each country to establish its own external tariffs and domestic commercial laws, but gives each some say as to how the other can proceed in doing so. This has been especially helpful to Canada, the smaller power in the

relationship. The binational panels follow prescribed legal procedures and their decisions bind both governments. This is not to suggest that the relationship is without problems, but what has been done has led to the two governments negotiating a successful free trade agreement with Mexico, a country much poorer and less developed than the U.S. or Canada. The CAFTA also put pressure on the multilateral community to reach agreement through the GATT.

The United States, despite a strong inclination to the contrary, has agreed to a free trade regime that places its trade law to some degree under bilateral control. At no time in the history of this country has anything of this magnitude taken place in its international economic dealings. Yes, the U.S. has been signatory to a number of bilateral and multilateral agreements throughout its history, but none as striking as the CAFTA. It has agreed to subject decisions of its domestic agencies to bilateral review rather than domestic judicial review and to accept the decisions of binational panels. It has also agreed not to change its laws in the trade area without taking notice of its northern neighbor. In essence, the two governments have replaced unitlateral judicialization with bilateral judicialization. The real impact of these obligations will become more apparent in the years to come and will be of particular importance in defining how the general dispute settlement obligations will grow. (Hart, 1990, pp. 28-29.) What now is an economic agreement between two countries and similar cultures could well turn into something like the EEC, with or without a Quebec.

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FTA DISPUTE SETTLEMENT (CHAPTERS 18 & 19)
STATUS REPORT FOR MARCH 1993

ACTIVE CHAPTER 19 CASES REVIEWING U.S. AGENCIES DETERMINATIONS

USA-91-1904-03 Live Swine from Canada
Commerce CVD Administrative Review for 1988/89

Appealed by:	Canadian and provincial governments and Canadian producers
First Panel Decision:	On May 19, 1992, the panel affirmed agency in part and remanded in part (1 partial dissent)
Second Panel Decision:	On October 30, 1992, the panel affirmed in part and remanded in part agency's Determination on Remand, (1 partial dissent)
Second Determination on Remand Filed:	November 19, 1992
Panel Order:	On December 27, 1992, the panel affirmed the second Determination on Remand
Extraordinary Challenge:	On January 21, 1993, USTR filed a request for an Extraordinary Challenge Committee

ECC-93-1904-01USA Live Swine from Canada
Extraordinary Challenge Committee Proceeding

Appealed by:	U.S. Government
Hearing:	March 10, 1993
Committee decision due:	April 8, 1993

USA-91-1904-04 Live Swine from Canada
Commerce CVD Administrative Review for 1989/90

Appealed by:	Canadian and provincial governments and Canadian producers
First Panel Decision:	On August 26, 1992, the panel affirmed agency in part and remanded in part
Determination on Remand Filed:	October 30, 1992
Hearing for Review of Determination on Remand:	December 17, 1992
Panel Review Suspended:	December 23, 1992, due to withdrawal of panelist

USA-92-1904-01 Certain Softwood Lumber Products from Canada
Commerce Final CVD Determination

Appealed by:	Canadian and provincial governments and Canadian producers
Panel Suspended:	November 20, 1992, due to withdrawal of panelist
Panel Resumed:	December 18, 1992
Panel Hearing:	February 11, 12, 1993
Panel Decision:	May 6, 1993

USA-92-1904-02 Certain Softwood Lumber Products from Canada
USITC Final Injury Determination

Appealed by:	Canadian and Provincial Governments and Canadian Producers
Panel Hearing:	April 21, 1993
Panel Decision Due:	June 4, 1993

USA-92-1904-03 Pure and Alloy Magnesium from Canada
Commerce Final Affirmation CVD Determination

Appealed by:	The "Gouvernement du Québec" and Canadian Producer
Panel Hearing by:	May 19, 1993
Panel Decision Due:	August 16, 1993

USA-92-1904-04 Pure and Alloy Magnesium from Canada
Commerce Final Affirmative Antidumping Duty Determination

Appealed by:	Canadian Producer
Panel Review Suspended:	January 27, 1993 due to withdrawal of panelist

USA-92-1904-05/06 Magnesium from Canada
USITC Final Injury Determination - (CVD & AD)

Appealed by:	Canadian Producer and the Gouvernement du Québec
Consolidated:	On January 22, 1993, the Panel consolidated the reviews of the two injury determinations
Panel Hearing by:	June 3, 1993
Panel Decision Due:	August 27, 1993

ACTIVE CHAPTER 19 CASES REVIEWING CANADIAN AGENCIES DETERMINATIONS

CDA-92-1904-01 Certain Machine Tufted Carpeting Originating in or Exported from the United States of America

Revenue Canada Final Determination of Dumping

Appealed by:	U.S. producers
Panel Suspended:	December 8, 1992, due to withdrawal of panelist
Panel Resumed:	January 5, 1993
Panel Hearing:	February 18 and 19, 1993
Panel Decision:	May 19, 1993

CDA-92-1904-02 Certain Machine Tufted Carpeting Originating in or Exported from the United States of America

CITT Final Injury Determination

Appealed by:	U.S. producers
Panel Hearing:	January 11 and 12, 1993
Panel Decision Due:	April 7, 1993

CDA-93-1904-01 Gypsum Board Originating in or Exported from the United States of America

Revenue Canada Final Determination of Dumping

Appealed by:	U.S. producers
Panel Hearing by:	August 26, 1993
Panel Decision Due:	November 18, 1993

CDA-93-1904-02 Gypsum Board Originating in or Exported from the United States of America

C.I.T.T. Final Injury Determination

Appealed by:	U.S. producers
Panel Hearing by:	October 13, 1993
Panel Decision Due:	January 4, 1994

COMPLETED CHAPTER 19 CASES REVIEWING U.S. AGENCIES DETERMINATIONS

USA-89-1904-01 Red Raspberries from Canada

Commerce Antidumping Administrative Review for 1986-87

Appealed by: Three Canadian exporters
Outcome: Duties upheld against one exporter; on second Remand, agency eliminated duties for two other exporters; both panel decisions were unanimous

USA-89-1904-02 Replacement Parts for Self-Propelled Bituminous Paving Equipment from Canada

Commerce Scope Determination

Appealed by: Canadian exporter and U.S. producer
Outcome: Agency affirmed in unanimous panel decision

USA-89-1904-03 Replacement Parts for Self-Propelled Bituminous Paving Equipment from Canada

Commerce Antidumping Administrative Review for 1986-87

Appealed by: Canadian exporter and U.S. producer
Outcome: Agency affirmed in unanimous panel decision

USA-89-1904-04 Dried, Heavy, Salted Codfish from Canada

Commerce Antidumping Administrative Review for 1986-87

Appealed by: Canadian exporter
Outcome: Panel review terminated by joint consent of participants because AD order revoked

USA-89-1904-05 Replacement Parts for Self-Propelled Bituminous Paving Equipment from Canada

Amended Commerce Antidumping Administrative Review for 1986-87

Appealed by: Canadian exporter and U.S. producer
Outcome: Panel consolidated this case with 89-1904-03 and terminated panel review

USA-89-1904-06 Fresh, Chilled and Frozen Pork from Canada

Commerce Countervailing Duty Determination

Appealed by: Canadian producers, Canadian and provincial governments
Outcome: Agency affirmed in part and remanded in part; on second Remand, the agency reduced the duty from 8 cents to 3 cents per kilo; both decisions unanimous with one concurring opinion in each

USA-89-1904-07 New Steel Rail, Except Light Rail, from Canada

Commerce Countervailing Duty Determination

Appealed by: Canadian producer
Outcome: Agency affirmed in part and remanded in part in unanimous opinion; on Remand, the agency reduced the duty from 112.34% to 94.57%

USA-89-1904-08 New Steel Rail, Except Light Rail, from Canada

Commerce Antidumping Duty Determination

Appealed by: Canadian producer
Outcome: Agency affirmed in unanimous opinion, with one partial dissent

USA-89-1904-09/10 New Steel Rails from Canada

USITC Threat of Injury Determinations

Appealed by: Canadian and U.S. producers
Outcome: Agency affirmed in unanimous opinion with one partial dissent

USA-89-1904-11 Fresh, Chilled or Frozen Pork from Canada

USITC Threat of Injury Determination

Appealed by: Canadian producers and provincial governments
Outcome: Panel unanimously (with one concurring opinion) remanded determination to agency; agency reversed itself following second unanimous Remand decision

ECC-91-1904-01USA Fresh, Chilled and Frozen Pork from Canada

Extraordinary Challenge Committee Proceeding

Appealed by: U.S. Government
Outcome: Extraordinary Challenge Committee unanimously dismissed the request because it failed to meet the threshold for an extraordinary challenge set out in FTA Article 1904.13, and affirmed the panel decision

USA-90-1904-01 Replacement Parts for Self-Propelled Bituminous Paving Equipment from Canada

Commerce Antidumping Administrative Review for 1988-89

Appealed by: Canadian exporter and U.S. producer
Outcome: The Panel remanded the determination to Commerce three times, in each instance affirming part of the determination. Final Order affirming the third determination issued on remand on December 27, 1993

USA-90-1904-02 Oil Country Tubular Goods from Canada

Commerce Scope Determination — Abolishment of End Use Certification Procedure

Appealed by: Canadian exporter
Outcome: Panel review terminated by joint consent of participants because request for panel review filed late

USA-90-1904-03 Sheet Piling from Canada

Commerce Administrative Review

Appealed by: Canadian producer
Outcome: Panel review terminated by joint consent of participants

USA-91-1904-01 Oil Country Tubular Goods from Canada

Commerce Scope Exclusion Determination

Appealed by: Canadian producers
Outcome: Case settled by negotiation of participants and panel review terminated by joint consent of participants

USA-91-1904-02 Iron Construction Castings from Canada

Commerce Antidumping Administrative Review for 1985-1987

Appealed by: Canadian producer
Outcome: Panel review automatically terminated at request of complainant

USA-91-1904-05 Replacement Parts for Self-Propelled Bituminous Paving Equipment from Canada

Commerce Antidumping Administrative Review Jan. 89 to Aug.89

Appealed by: Canadian producer
Outcome: Panel review automatically terminated at request of complainant

COMPLETED CHAPTER 19 CASES REVIEWING CANADIAN AGENCIES DETERMINATIONS

CDA-89-1904-01 Polyphase Induction Motors from the U.S.

National Revenue Affirmative Dumping and Subsidizing Determination

Appealed by: U.S. producer
Outcome: Panel review automatically terminated at request of participants because of Canadian International Trade Tribunal's negative injury determination

CDA-90-1904-01 Integral Horsepower Induction Motors

CITT Continuation of Injury Finding

Appealed by: U.S. producer and several Canadian importers
Outcome: Agency affirmed in unanimous opinion with one partial dissent

CDA-91-1904-01 Certain Beer Originating in or Exported from the United States of America by G. Heileman Brewing Company, Inc., Pabst Brewing Company and The Stroh Brewery Company for Use or Consumption in the Province of British Columbia

Revenue Canada Final Determination of Dumping

Appealed by: U.S. producers
Outcome: Panel unanimously affirmed agency in part and remanded in part; virtually no change in duty resulted from the determination on remand

CDA-91-1904-02 Certain Beer Originating in or Exported from the United States of America by G. Heileman Brewing Company, Inc., Pabst Brewing Company and the Stroh Brewery Company for Use or Consumption in the Province of British Columbia

CITT Final Injury Determination

Appealed by: U.S. producers
Outcome: Panel unanimously affirmed agency in part and remanded in part, with one concurring opinion. On remand Panel unanimously affirmed agency's determination on remand, with one dissent

COMPLETED CHAPTER 18 CASES

CDA-89-1807-01 West Coast Salmon and Herring from Canada

Requested by: U.S. Government
Outcome: Unanimous panel reduced Canadian landing requirement reduced from 100% to 80% on an interim basis; Parties subsequently negotiated a settlement

USA-89-1807-01 United States Regulations on Lobster

Requested by: Canadian Government
Outcome: 3 member majority with 2 member dissent upheld U.S. size regulations on lobster

USA-92-1807-01 Treatment of Non-Mortgage Interest Under Article 304

Requested by: Canadian Government
Outcome: Unanimous panel found in favor of Canadian interpretation of Article 304 allowing interest payments on funds used to acquire real property, equipment and other fixed assets used in the production of goods, to be includable in calculating the costs of production for rules of origin purposes

CDA-92-1807-01 Durum Wheat

Requested by: Canadian Government
Outcome: Unanimous panel found in favor of Canada's interpretation of FTA Article 701.3 on acquisition price and exclusion of Western Grain Transportation Act subsidies from such cost calculations. The panel also recommended that a binational working group be established under Article 1802.4 of the FTA to oversee periodic audits of durum wheat sales to the United States by the Canadian Wheat Board

Status Report revised March 23, 1993
NOTE: This report is provided for information only and does not purport to provide complete descriptions of the panel decisions. The full texts of all decisions may be obtained from the Binational Secretariat in either Ottawa or Washington.

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PART X: CONCLUSION

A)General Description

The Canadian-American Free Trade Agreement is the most extensive trade agreeement ever concluded between two countries. It built on the 1965 AutoPact and the somewhat limited 1985 U.S. FTA with Israel. It covers more trade-related issues than any other agreement and breaks new ground in a number of areas. It will remove all tariff barriers over a ten-year period. It goes much further than the GATT in that it deals with investment, services and provides for a dispute-settlement mechanism that is transnational in character. It will be of lasting value to the Canadian and U.S. economies. The creation of the CAFTA was not an isolated event in the history of relations between the two countries. They have a long history of economic interaction. Trade policy has long been a major tool of domestic nation-building and foreign policy on both sides of the 49th parallel (Lemco, Belous, and Subrin; 1990, p. 4.). The CAFTA sets a new standard for trade agreements covered under the GATT. It takes a number of GATT commitments, bilateral arrangements and ad hoc understandings and incorporates them into a treaty which will govern Canadian-American trade and economic relations for the foreseeable future. The CAFTA should chart a new course for the largest bilateral trading relationship in the world.

While the Canadian and U.S. negotiators did not get all they wanted in the CAFTA, it can be said that for the most part both countries achieved their objectives. Trade is not a zero-sum game

where there are only winners and losers. This agreement takes a strong stand against protectionism and for trade liberalization. It reflects the commitments of both governments to liberalize trade on a global basis through multilateral negotiations under the GATT. It is a comprehensive and progressive agreement establishing a coherent and binding framework which provides investors in both countries with a more stable trading environment.

B)What the U.S. wanted and got?

At the time the agreement was made the Americans were increasingly concerned with the lack of progress at the latest round of the GATT talks, and the fact that the world was evolving in the direction of regional trading blocs. An American-led trading bloc would be a strong alternative in case the multilateral system continued to stagnate. The CAFTA was one of the instruments fashioned to help the U.S. increase its exports in the face of increasing trade deficits. The objectives that the U.S. reached in the CAFTA were the lowering of Canadian tariffs (which were two to three times as high as U.S. tariffs on Canadian goods), the loosening of restrictive investment requirements, and better access to Canadian energy supplies. The agreement overcame a restrictive investment environment and nationalistic energy policies left over from the Trudeau regime. Furthermore, the CAFTA was seen as providing a model for the GATT. Perhaps, most important to American negotiators was having an agreement which would encourage greater domestic efficiency and productivity thus enhancing American's international competitiveness (Ibid, p. 7.).

The CAFTA raised the investment threshold for screening by the Canadian goverment takeovers from $25 million to $150 million. It provided for the equal national treatment of goods and services. It gave the U.S. greater access to Canada's natural resources, particular its vast oil and gas supplies. It went beyond the GATT incorporating a far-reaching chapter on services and easier business travel requirements for both parties. While there was no final resolution of the issue of "subsidies", both countries agreed to continue talking about this highly contentious issue in their various working groups.

C)What Canada wanted and got?

One out of every two goods produced in Canada is exported. More than one-third of its national income is derived from trade. Four of its top five export sectors are concentrated in the primary product area. In the early 1980s, these sectors faced more strenous competition from third-world producers of basic resources, many of which could undercut Canada in price. Canada was more prone to suffer the cyclical downturns in resource pricing than countries with more diversified economies. Outside of the products of its primarily U.S.-owned auto industry, which has benefitted from the integrating forces of the AutoPact, only a small quantity of Canada's finished industrial goods have traditionally been exported. The U.S. has been the largest customer of these finished goods, which have a higher value-added quotient. Canadian producers have tended to concentrate on their small domestic market and this has led to short production runs.

In order to produce a more diversified and manufacturing-based economy, larger markets, which could achieve economies of scale were neccessary. When Canada entered into negotiations with the U.S., it had the smallest market of any of the G-7 countries.

The CAFTA was seen as a means of helping Canadians improve their economic position vis-a-vis the world in general and their biggest customer the U.S. in particular. With demand rather flat in the primary product area which was subject to cyclical downturns, Canada needed a larger market in order to rationalize production in the manufacturing sector. It could then concentrate on products in which it had a comparative advantage in this new larger market of over 275 million consumers.

Canada gained its major objectives in the bilateral agreement with the U.S. It gained more secure access to the large American market, which should allow greater specialization and rationalization of Canada's industries that engage in international trade. It also got a dispute-settlement mechanism that helped it deal with such items as government procurement and subsidies. Even though the Canadians did not achieve an exemption from U.S. trade laws, they got the next best thing in the binational panels that could bind both countries by their rulings. In the long-term, I think that Canada will benefit from this agreement because it will produce lower prices, better jobs, and a continued high standard of living. With a worldwide recession and a high Canadian dollar, the volume of trade continued to increase between the two countries, even though Canadian unemployment rose from around 7% in 1988 to over 10.5% in 1992.

D)Creating the CAFTA: The political struggle in Canada

This study focused on the politics involved in the creation of the CAFTA and shed light on the trade policy process in both the U.S. and Canada. The relationships between interest groups, the legislatures, the executives, and the publics affected by the trade agreement were discussed. While the debates were much more adversarial and contentious in Canada, the debate in the U.S. gave one a good feel for how American trade policy is made.

The CAFTA was much more than a trade agreement to the Canadians, it was a major political event, perhaps the biggest one in this century. It was negotiated against the backdrop of another major issue, the issue of Meech Lake and the future of the Canadian confederation. The effects of the CAFTA can not be viewed in a vacuum but must be seen within the context of federal-provincial problems. The Mulroney administration by aligning itself with the business interests of the provinces of western Canada (especially Alberta) and Quebec, sought to bring these two into a coalition against the most populous province of Ontario. If these two could agree on the issue of the CAFTA, it was surmised by Mulroney and others that an agreement on the constitution could be reached. This has yet to take place as the failure of Meech Lake in 1990 and the subsequent Charlottetown accord in 1992 makes clear. It has often been said that Canadians have problems defining themselves as being anything more than "not-American." The CAFTA will probably continue to muddle the definition.

I would argue that the business community and the Progressive

Conservatives were very forward-looking in their analysis of the economic problems facing Canada. Canada is a small trading country which does a great majority of its trade with the U.S. Having tried to diversify its trading partners in the 1970s and failed, the only realistic alternative was closer economic cooperation with its largest partner. The trading bloc mentality evident in the international economic environment made it imperative for the Canadians to move toward a U.S.- led North American bloc, even though the move would probably involve some loss of sovereignty. All countries that enter into international and/ or regional agreements lose some degree of sovereignty in the hope of diminishing the chances for war, increasing stability, raising their standards of living, etc.

E)Creating the CAFTA: The political struggle in the U.S.

On the American side, the U.S. Constitution gives Congress the authority to pass trade legislation, even though the President has the power to negotiate with foreign governments. Congress has delegated some of its authority to the President, while retaining its oversight function. Thus trade negotiations are conducted in the context of a delicate political relationship between the executive and legislative branches of government. Because of this constitutionally-mandated partnership, the executive branch must have the counsel and cooperation of the Congress throughout the negotiation process in order to avoid a situation in which the President negotiates an agreement that cannot subsequently be ratified by the Congress. Because Congress is more subject to protectionist pressures from

interest groups the pressures to maintain the existing structure of protection are stronger in trade negotiations than other trade policy decisions. (Frankel, 1988, pp. 208-209.) In the case of the CAFTA in order to ensure a large favorable vote in both the House and the Senate, accommodations had to be made to various interests affected by the agreement like the plywood manufacturers.

F)The most notable achievment: a mechanism for dispute settlement

Given the size of the Canadian-American economic relationship, hardly a day goes by without some sort of conflict arising along the common border between the two countries. More than ninety-nine percent of these conflicts are handled by border officials or the diplomatic community. Less than 1% are handled by senior officials/ministers and receive major public attention (Interview with Pelletier, 1992.). These disputes are resolved in the embassies and consulates on both sides of the 49th parallel. The CAFTA marked an important step in depoliticizing trade disputes by creating the binational panels that make binding decisions on chapter 18 and 19 problems.

The CAFTA provides various means of forcing both countries to play by the rules. The dispute settlement mechanism is the centerpiece of the CAFTA. The binational panels are much stronger than the mechanisms provided in the GATT and their deliberations are subject to specific time restraints. The CAFTA is grounded in the rule of law that binds both countries. The overall economic and political relationship between the two countries has been made stronger by it.

G)CAFTA and the future

Finally it should be added that this study of the CAFTA focuses on the type of social and economic problems countries will face in the new world that has been emerging since the end of the Cold War. Military competition and conflicts have continued to occur, but they compete for attention with new concerns of the sort that surfaced in the debates over the CAFTA, especially in Canada. Particularly important were the debates over the loss of culture and political sovereignty in Canada. They may well foreshadow other debates to come.

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