

Surmounting Trade Barriers:  
American Protectionism and the Canada-United States Free Trade Agreement

by

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## **Author's Declaration**

I hereby declare that I am the sole author of this thesis. This is a true copy of the thesis, including any required final revisions, as accepted by my examiners.

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## **Abstract**

This thesis examines US protectionism in the 1980s from Canadian and American perspectives, and its role in Canada's pursuit of the historic 1988 Canada-US Free Trade Agreement. It analyzes the perceived "threat" of protectionism and evaluates the agreement's provisions against Canada's goal of securing access to the US market. It contends that US protectionism was crucial in the Mulroney government's decision to negotiate a bilateral agreement and was a contentious issue for the agreement's critics. US sources, unexamined in existing historiography, confirm the increased threat of American protectionism, but emphasize a distinction between the threat and implementation of protectionist trade law. Although the agreement did not shield Canada from US trade remedies, Canada gained important presence in the trade dispute process. These conclusions are drawn from Canadian and American media and government documents, 1980s academic and think-tank commentary, legal documents, the memoirs and diaries of major players, and select archival sources.

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## Glossary of Abbreviations

AD	Anti-Dumping Duty
BCNI	Business Council on National Issues
CUSFTA	Canada-United States Free Trade Agreement
CUTC	Canada-United States Trade Commission
CVD	Countervailing Duty
DEA	Department of External Affairs (Canada)
EEC	European Economic Community
FTA	Free Trade Agreement
GATT	General Agreement on Tariffs and Trade
GNP	Gross National Product
ITA	International Trade Administration (US)
ITC	International Trade Commission (US)
LAT	<i>Los Angeles Times</i>
MTN	Multilateral Trade Negotiations
NAFTA	North American Free Trade Agreement
NTB	Non-Tariff Barrier
NYT	<i>New York Times</i>
USTR	United States Trade Representative
WP	<i>Washington Post</i>
WSJ	<i>Wall Street Journal</i>

## Introduction

On the first day of formal Canada-United States trade negotiations, 21 May 1986, President Reagan imposed a 35 percent duty on Canadian cedar shakes and shingles exported to the US. Even though shakes and shingles accounted for a minute portion of Canada's total exports to the US, Mulroney was infuriated. In a letter to Reagan, Mulroney expressed extreme disapproval of the tariff, calling it "pure protectionism," and a betrayal of their previous pledges to reduce Canada-US trade barriers, promote liberalized trade, and reject the forces of protectionism.<sup>1</sup> In his reply, Reagan emphasized the strong bi-partisan tide of protectionism that ran through Congress and expressed hope that the trade action would not damage their personal relationship. For Mulroney, however, more than a personal relationship was at stake – he believed the entire affair made it difficult for him to domestically promote a free trade agreement (FTA) and maintain a climate suitable for continued negotiations.<sup>2</sup> Mulroney was not exaggerating.

Free trade with the United States and the pursuit of unimpeded access to the US market has been a defining and contentious issue in Canada's economic and political history. Prior to Confederation, the question of freer trade with the United States dominated Canadian trade policy considerations. Britain's discontinuance of mercantilism, repeal of the Corn Laws, and adoption of free trade from 1846-8 terminated Canada's guaranteed access to the British market, forcing Canada to seek new markets for its exports. The geographically close, large and expanding US market was an obvious outlet, and the 1854 Elgin-Marcy Reciprocity Treaty secured both countries' tariff-free trade on a range of products. The US decision to abrogate the treaty in 1865 amplified Canadian worries about export stability. From 1866 to 1874, Canada

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<sup>1</sup> Brian Mulroney, *Memoirs: 1939-1993* (Toronto: McClelland and Stewart, 2007): 448.

<sup>2</sup> Mulroney, *Memoirs*, 448-449.

attempted to negotiate a new FTA with the US on three separate occasions but was unsuccessful due to strong American protectionist sentiments. The rejection of a new trade pact was a fundamental catalyst of John A. Macdonald's 1879 National Policy, but this high-tariff system was not particularly advantageous for Canadian exporters of natural resources and manufactured products. By 1911, a new free trade initiative, this time with US approval and with provisions favourable to Canada, almost became a reality. It was struck down by the Canadian public in the election of 1911, when Borden's anti-free trade Conservatives defeated Laurier's Liberals and their pro-free trade platform.

Efforts to liberalize trade re-emerged during the Great Depression with reasonable success. The US and Canada concluded reduced-tariff pacts in 1935 and 1938 as a result of Roosevelt's "good neighbour" policy. This represented a shift from the highly protectionist US trade legislation manifested in the infamous *Smoot-Hawley Tariff Act* (1930), and *Buy America Act* (1933). For six months between 1947-8, Canada secretly met with the US to negotiate a new FTA. At the last minute, Prime Minister William Lyon Mackenzie King abolished the initiative in fear of political retaliation similar to that experienced by his mentor Laurier in 1911. Postwar trade policy centered upon the liberalizing efforts of the General Agreement on Tariffs and Trade (GATT), but proved ineffective at insulating Canada from US protectionist flare-ups. However, the 1965 Auto Pact was a successful sectoral arrangement that strengthened the Canadian manufacturing industry.<sup>3</sup> As the US faced increased competition from the Pacific Rim, questions of its global competitiveness and a more serious contemplation of the use of trade remedies characterized US trade policy into the 1980s. Any increase in US protectionism profoundly influenced Canadian trade policy, and the drama which surrounded the Canada-US negotiations

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<sup>3</sup> Bruce Muirhead, *Dancing Around the Elephant: Creating a Prosperous Canada in an Era of American Dominance, 1957-1973* (Toronto: University of Toronto Press, 2007): 85-87.



in the 1980s culminated in the 1988 federal election. Canada took the “leap of faith” into a new, comprehensive and unparalleled trade agreement with the US, distancing itself from the economic nationalism of the 1970s.<sup>4</sup> US Congressional protectionism was not strong enough to avert the signing and implementation of the 1988 Canada-US Free Trade Agreement (CUSFTA).

Although Canada’s trade policy is only one key variable relevant to its economic performance, it has tremendous political significance. Existing historiography on the CUSFTA has centered on an array of trade-related issues, from its influence on Canadian foreign and domestic policy, to its sectoral-economic impacts, and to the drama of the trade negotiations. The historiography has also been highly polarized, much like the debate on free trade itself. Relatively little material has been written on the CUSFTA from a historical perspective.<sup>5</sup> Political scientists have tended to overlook the CUSFTA since the completion of the North American Free Trade Agreement (NAFTA) – an unfortunate omission, given that the CUSFTA was an important precursor to NAFTA. Although a specific history primarily focused on US protectionism and its relationship to the CUSFTA has yet to appear, US protectionism has been discussed in some of the major works.

G. Bruce Doern and Brian Tomlin’s *Faith and Fear* (1991) was the first comprehensive study to discuss the role of US protectionism in the formation of Canadian trade policy. They contended that US protectionist sentiments became more vehement in the 1980s, exhibited by the increased use of US trade remedy laws against Canada. This resulted in preliminary rulings against Canada by the US International Trade Commission (ITC) about 75 percent of the time

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<sup>4</sup> Michael Hart, Bill Dymond and Colin Robertson, *Decision at Midnight: Inside the Canada-US Free-Trade Negotiations* (Vancouver: UBC Press, 1994): 54-58. Other essential works on Canadian trade policy include: Michael Hart, *A Trading Nation: Canadian Trade Policy From Colonialism to Globalization* (Vancouver: UBC Press, 2001); Randall White, *Fur Trade to Free Trade: Putting the Canada-U.S. Trade Agreement in Historical Perspective* (Toronto: Dundurn Press, 1989).

<sup>5</sup> Much more material was written during formal and informal trade negotiations, 1985-1988.

from 1980 to 1986. They identified the rising tide of US protectionism brought on by the 1981-1982 recession as a significant cause in the pragmatic Canadian pursuit of an FTA to secure access to the US market and shield against American protectionism (as the Macdonald Commission and Business Council on National Issues (BCNI) had also recommended).<sup>6</sup> US protectionism was confirmed as a major threat to Canadian economic sustainability. In an evaluation of the agreement, Doern and Tomlin argued that the new dispute settlement system was beneficial to Canada as it gained procedural access to the decisions and application of US trade remedy law. They also regarded the agreement's broad tariff reductions as an achievement that enhanced Canada's access to the US market.<sup>7</sup>

Ardent free trade opponent Mel Hurtig also reinforced the dichotomous nature of the debate in *The Betrayal of Canada* (1991). Hurtig argued that the CUSFTA did not benefit Canada whatsoever. It failed to both reduce or exempt Canadian vulnerability to US trade laws, ultimately leaving Canada just as susceptible to US protectionist whims (and a US Congress that insisted on the annual scrutiny of Canadian trade practices before agreeing to implement the legislation that made the CUSFTA law).<sup>8</sup> For Hurtig, this conclusion was confirmed by the US prosecution of trade actions against Canadian exporters after the agreement was enacted, which included anti-dumping charges, countervailing duties (CVDs), meat inspection barriers, and import quotas. Hurtig blatantly opposed the agreement for other reasons relating to its economic and social impacts, and concluded that Canada's objective of enhancing its access to the US market was not achieved. Canada remained fully unguarded from US trade remedies because the

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<sup>6</sup> G. Bruce Doern and Brian Tomlin, *Faith and Fear: The Free Trade Story* (Toronto: Stoddart Publishing, 1991): 68, 275-285.

<sup>7</sup> Doern and Tomlin, *Faith and Fear*, 249-253.

<sup>8</sup> Mel Hurtig, *The Betrayal of Canada* (Toronto: Stoddart Publishing, 1991): 187-188.

agreement did not define acceptable “subsidies.”<sup>9</sup> Hurtig focused on the agreement’s short-term impacts, and did not evaluate the strength of US protectionism during the 1980s.

Michael Hart, Colin Robertson and Bill Dymond’s *Decision At Midnight* (1994) was a seminal work that focused primarily on the negotiations.<sup>10</sup> The authors based their assessment of the CUSFTA on the contention that the US protectionist sentiments and trade actions of the 1980s represented a strong outbreak of protectionism not experienced since the 1930s. Protectionism re-emerged in the US as a defensible and accepted view. This posed a significant threat to Canadian economic growth and overall export stability.<sup>11</sup> The authors concluded that the agreement was a good one which mostly met Canadian policy objectives, especially the goal of gaining secured access to the US market. The authors positively appraised the dispute settlement provisions of the agreement which “constrained” the pursuit of US trade remedies.<sup>12</sup> However, Canada’s gains on reduced US trade remedy vulnerability were a “qualified” success, as both countries failed to create mutually agreeable rules on subsidies. Nonetheless, Canada gained a bilateral forum to challenge future applications of US trade laws. They also asserted that “real security...could only have been achieved if Canadians were to have become immune from the application of American trade law,”<sup>13</sup> but that complete exemption of US trade laws was not an actual Canadian negotiating objective. Indeed, it was unrealistic because many of the US trade remedy laws were sanctioned by the GATT. The CUSFTA’s elimination of conventional tariffs also contributed to their positive assessment.

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<sup>9</sup> Hurtig, *The Betrayal*, 188.

<sup>10</sup> Hart, Dymond and Robertson were all members of the Canadian free trade team with the Department of External Affairs during negotiations. Hart also helped coordinate and write *A Review of Canadian Trade Policy and Trade Policy for the 1980s*, two essential policy documents discussed in Chapter 1. Similar points from those reports are made in *Decision at Midnight*. See Hart et al, *Decision at Midnight*, “About the Authors,” 455-456.

<sup>11</sup> *Ibid*, 36, 309, 376.

<sup>12</sup> *Ibid*, 376.

<sup>13</sup> *Ibid*, 379.

J.L. Granatstein also briefly addressed the role of US protectionism in the Canadian pursuit of an FTA in *Yankee Go Home?* (1996). Though Granatstein's main focus was on Canadian nationalism and anti-American sentiments, he maintained that the Canadian quest for improved trade relations came as a result of the 1981-1982 recession. He emphasized that increased protectionist sentiments in the US Congress resulted from foreign competition, trade deficits, and high unemployment in the "rust belt."<sup>14</sup> These developments caused the Liberals and their Conservative successors to reconsider trade policies and were a catalyst in Mulroney's pursuit of a bilateral FTA. In his final analysis, the re-election of Mulroney in 1988 represented another strike against anti-Americanism in Canada and improved bilateral trade relations.<sup>15</sup>

In a paper presented at a Canada-US trade conference (2000), Paul Wonnacott argued that the issue of assured access to the US market shaped the Canadian negotiating strategy and was the "precipitating factor" in seeking an agreement and a dispute settlement mechanism.<sup>16</sup> Wonnacott, an American, explained that US trade remedy laws stemmed from what Americans called "fair trade" laws aimed at leveling the free trade field. Across the border, the term "contingency protection" was used more frequently in Canadian rhetoric when Canada was subjected to countervail and anti-dumping charges. The Canadian quest for a dispute settlement mechanism and reduced vulnerability to trade remedy laws were contentious issues for Congress. Also, negative Canadian perceptions of US protectionism were heightened by the softwood lumber issue which was fundamentally caused by conflicting definitions of acceptable and unacceptable subsidies.<sup>17</sup>

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<sup>14</sup> J.L. Granatstein, *Yankee Go Home? Canadians and Anti-Americanism* (Toronto: HarperCollins, 1996): 248-250.

<sup>15</sup> Granatstein, *Yankee Go Home?* 281.

<sup>16</sup> Paul Wonnacott, "The Canada-U.S. Free Trade Agreement: The Issue of Assured Access," In *Building a Partnership: The Canada-United States Free Trade Agreement*, Edited by Mordechai Kreinen (East Lansing: Michigan State University Press, 2000): 70.

<sup>17</sup> Wonnacott, "The Canada-U.S. Free Trade Agreement," 75-76.

Nelson Michaud and Kim Nossal's edited collection on Mulroney's Conservative foreign policy, *Diplomatic Departures* (2001), included articles on the free trade initiative. Brian Tomlin expanded on his earlier argument, contending that Canada's decision to pursue an FTA with the US was pragmatic, not ideological.<sup>18</sup> Tomlin pinpointed Washington's chief foreign-trade policy concern as the perceived "unfair" trading practices of its partners which added to the protectionist thrust and a "greater willingness in the United States to move more aggressively to curb imports."<sup>19</sup> Mulroney faced an amplified barrage of US protectionism, manifested in more frequent investigations of Canadian export practices and increased Congressional legislation aimed at limiting Canadian exports.<sup>20</sup> In Tomlin's view, the road to free trade was paved primarily by these developments. This argument was corroborated by Gordon Mace, who observed that even though Canada was seldom the main target of increased American protectionism in the 1980s (Japan and Europe faced much more), Canadian exporters still faced an uneasy and anxious climate. Canada thus found itself in the "crossfire" of US trade measures, compounded by a continuously greater reliance on the US market. To resolve this serious economic dilemma, the Mulroney government sought an FTA.<sup>21</sup> For Michaud and Nossal, its quest for an FTA represented a dramatic and pragmatic shift in Conservative foreign trade policy trends extending back to the 1911 election.<sup>22</sup>

The historiography has been relatively unified in its basic assessments of US protectionism and the CUSFTA (with the exception of nationalists such as Hurtig). Given the

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<sup>18</sup> Brian Tomlin, "Leaving the Past Behind: The Free Trade Initiative Assessed," In *Diplomatic Departures: The Conservative Era in Canadian Foreign Policy, 1984-1993*, Edited by Nelson Michaud and Kim Richard Nossal (Vancouver: UBC Press, 2001): 48-57.

<sup>19</sup> Tomlin, "Leaving the Past," 49.

<sup>20</sup> Ibid.

<sup>21</sup> Gordon Mace, "Explaining Canada's Decision to Join the OAS: An Interpretation," In *Diplomatic Departures*: 149-151.

<sup>22</sup> Nelson Michaud and Kim Richard Nossal, "Diplomatic Departures? Assessing the Conservative Era in Foreign Policy," In *Diplomatic Departures*: 290-291.

established importance of US protectionism in Canada's decision to pursue an FTA, it is striking that the authors have only superficially engaged the subject itself. The scholars who have objected to the CUSFTA have not done so on the basis of the agreement's guards against US protectionism.<sup>23</sup>

More analysis is necessary of the fundamental premise that heightening US protectionism justified an agreement. The historiography has not examined how Canadian opponents to an FTA responded to the assertion that US protectionism represented a significant threat to Canadian economic sustainability. Critically examining this point is vital for understanding the free trade debate. Previous scholars have not had the privilege of studying the recently published memoirs of Brian Mulroney, Derek Burney, Pat Carney, and the diaries of Ambassador Allan Gotlieb, to assess Canadian thoughts on US protectionism. The analysis of US protectionism's influence on Canadian government trade policy documents also remained general. Chapter 1 adds breadth to the debate and specifically analyzes the role of US protectionism in the free trade initiative, and how opponents responded to the question of US protectionism.

Claims about the strength of US protectionism in the 1980s have been based on Canadian perceptions and sources. A grounded assessment must critically engage US government and media sources to validate, adjust, or clarify these claims. Chapter 2 explores whether the perceived threat of US protectionism was as strong as some Canadians stressed and considers the overall nature of 1980s American trade policy.

Lastly, the historiographical assessments of the CUSFTA do not directly reference or analyze the text of the agreement; particularly its guards against US protectionism. A precise understanding of the agreement and its provisional shields against trade remedies must place

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<sup>23</sup> See Maude Barlow, *Parcel of Rogues: How Free Trade is Failing Canada* (Toronto: Key Porter Books, 1990); Lawrence Martin, *Pledge of Allegiance: The Americanization of Canada in the Mulroney Years* (Toronto: McClelland and Stewart, 1993).

primary importance on its legal provisions. Chapter 3 evaluates to what extent the actual agreement guarded against US protectionism, with specific references to various articles and the underlying assumptions of the CUSFTA itself. In these capacities, this thesis contributes to the scholarly discussion on US protectionism and the debate on the 1980s Canada-US free trade initiative.

## Chapter 1: Canada and US Protectionism

Canada is often described as a “trading nation” given its dependence on exports to create wealth, its small domestic market, and its abundance of natural resources. Canadian exporters and corporations have always perceived the American market (about ten times the size of Canada’s) as a great economic engine. In the interwar years, the US overcame Britain as Canada’s largest and most important export market and trading partner.<sup>1</sup> By 1984, three quarters of all Canadian trade was with the US, totaling nearly \$156 billion in exports and imports.<sup>2</sup> That year, exports to the United States accounted for more than fourteen times the amount to Japan, Canada’s next largest trading partner. The growth in exports to the United States in 1984 alone was more than the combined total of all Canadian exports to Europe and Japan.<sup>3</sup>

The clichés about the nature of the Canadian export economy became increasingly relevant in the 1970s and 1980s. The United States began losing some of its comparative economic advantage to other newly industrialized nations, especially in its labour-intensive sectors which suffered from the lower production costs and government subsidy programs of its competitors. As the United States entered an increasingly globalized trading environment (which contrasted with its post-war domestic-oriented economy), it faced mounting international competition. Other economic problems contributed to a weak American economy: a high US dollar, growing trade deficits with its major trading partners, soaring inflation, and high unemployment. The prolonged 1981-1982 recession also stunted economic growth and left the

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<sup>1</sup> Department of External Affairs (Canada), *A Review of Canadian Trade Policy: A Background Document to Canadian Trade Policy for the 1980s* (Ottawa: Minister of Supply Services Canada, 1983): 20-21.

<sup>2</sup> Donald S. Macdonald (Chairman), *Royal Commission on the Economic Union and Development Prospects for Canada, Volume One* (Ottawa: Minister of Supply Services Canada, 1985): 247.

<sup>3</sup> James F. Kelleher and Department of External Affairs (Canada), *How to Secure and Enhance Canadian Access to Export Markets* (Ottawa: Canadian Government Publishing Centre, 1985): 6-7.



Reagan administration, Congress and American public concerned about the future of the US economy.<sup>4</sup>

The upshot of America's state of economic malaise was a policy shift back to more "protectionist" trade laws and practices to help shield damaged American industries from the perceived "unfair" trading practices of their competitors. In the 1970s and 1980s, existing US trade laws helped the government attempt to limit the competitive advantage of its foreign trade partners. The *Anti-Dumping Act* (1921), *Smoot-Hawley Tariff Act* (1930), *Buy America Act* (1933) and *Trade Act* (1974) allowed the government to impose both tariff and non-tariff barriers (NTBs) on foreign competitors and their products. Many of these barriers were sanctioned by the GATT.<sup>5</sup> The threat of US protectionist sanctions, tariffs, and general sentiments created a climate of uncertainty in Canada, given its overwhelming economic dependence on the US market.

Anxiety surrounding American protectionism in Canada during the 1980s decisively influenced the development and eventual shift in Canadian trade policy from the Trudeau to Mulroney governments. The apparent danger of US protectionism for Canada's overall export economy was a *fundamental* premise upon which the Mulroney government pursued a bilateral trade pact with the US. A lively debate in Canada about the perceived dangers of US protectionism ensued from 1983 to 1988, including commentators in government, academia and

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<sup>4</sup> Stephen Clarkson, *Canada and the Reagan Challenge* (Ottawa: Canadian Institute For Economic Policy, 1982): 116-117.

<sup>5</sup> Clarkson, *Reagan Challenge*, 119-123; Rodney de C. Grey, *United States Trade Policy Legislation: A Canadian View* (Montréal: Institute for Research on Public Policy, 1982); Department of Foreign Affairs (Canada) and Mike Robertson, *U.S. Trade Remedy Law: The Canadian Experience, Second Edition, 1985-2000* (Ottawa: Department of Foreign Affairs and International Trade, Trade Remedies Division, 2002). This work provides a comprehensive outline of various US trade remedy laws. See pages 1-67.

media. American protectionism was often alluded to by proponents and opponents of a bilateral FTA.<sup>6</sup>

In 1982 the Department of External Affairs (DEA), under the direction of Ed Lumley, Minister of State (International Trade), began an extensive review of Canada's trade strategies to anticipate Canada's future economic vitality, with a special focus on international trade.<sup>7</sup> The *Review of Canadian Trade Policy*, released the following year, reminded Canadians that "full and active participation in international markets is the key to Canada's further economic development."<sup>8</sup> It referred back to Canada's large dependence on exports which accounted for over 30 percent of its Gross National Product (GNP).<sup>9</sup> Macroeconomic conditions characterized by a long, drawn-out recession, over inflated economy, levels of record unemployment, and subsequent increases in global protectionist pressures, were cited as severe threats to the international trading system.<sup>10</sup> The chapter dedicated to foreign market access indicated that tariffs had been reduced through the GATT Tokyo Round (1973-9) to reasonable levels, and therefore did not represent a large impediment to Canadian exporters into the US. With the exception of a few highly protected industries (such as textiles, footwear and clothing), it noted, "the average tariff on dutiable manufactured exports to the United States will by 1987 be around 5.7 percent.... The tariff is not a significant barrier for most of our current exports."<sup>11</sup> Free access for automotive parts through the 1965 Auto Pact helped Canadian manufacturers attain

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<sup>6</sup> Chapter 1 does not examine the formal negotiations in detail. Its primary focus is US protectionism from 1982-1988 and its significance to the Canadian pursuit of bilateral talks and the overall domestic debate.

<sup>7</sup> Derek H. Burney, *Getting It Done: A Memoir* (Montréal and Kingston: McGill-Queen's University Press, 2005): 63.

<sup>8</sup> DEA, *Review*, foreword.

<sup>9</sup> *Ibid*, 3.

<sup>10</sup> *Ibid*, 1.

<sup>11</sup> *Ibid*, 153, 154.

tariff-free market share in the US. However, the report cited high tariffs on Canadian petrochemicals and rolling rock as stifling to those particular sectors of the economy.<sup>12</sup>

Although protective tariffs were not interpreted as a severe threat to US market access, the *Review* concluded that “Buy America” and “Buy National” programs – which represented significant NTBs – were problematic. For example, the *Surface Transportation Assistance Act* of 1982 legislated that state and municipal governments had to give special preference to US products where federal funds were used to construct highways, bridges and urban transit systems.<sup>13</sup> In the *Review’s* final summary document, *Canadian Trade Policy for the 1980s*, NTBs were identified as major impediments to Canadian exporters. They sometimes caused Canadian firms to set up production in the US to bypass NTBs.<sup>14</sup> In this light, US protectionist measures represented an apparent threat to not only Canadian exporters, but to Canadian domestic investment as well.

The *Review* cited the possibility of additional US protectionist measures as a growing concern. This was perceived as creating a climate of uncertainty for Canadian exporters, while also subjecting them to even more American NTBs, restricting Canada’s access to the US market. The DEA believed that the US Administration was vulnerable to protectionist sentiments as a result of pleas from constituents, senators and members of Congress. “The susceptibility of Congress to protectionist pressures results in much protectionist draft legislation which, even if resisted by the Administration...can contribute to a climate of uncertainty,” it noted.<sup>15</sup> The DEA also anticipated slow economic growth in the 1980s, which “could further encourage protectionist pressures- undoing some of the trade liberalization of the past three decades and

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<sup>12</sup> Ibid, 154, 155.

<sup>13</sup> Ibid, 154, 155.

<sup>14</sup> Department of External Affairs (Canada), *Canadian Trade Policy for the 1980s: A Discussion Paper* (Ottawa: Minister of Supply Services Canada, 1983): 28.

<sup>15</sup> DEA, *Review*, 155.

thereby lowering real incomes.”<sup>16</sup> Existing American trade laws upheld a system of contingency protection for American corporations if it could be proven that an American industry faced a serious threat of deterioration as a result of foreign competition.<sup>17</sup>

The overall purpose of the *Trade Policy Review* was to reconsider Canada’s approach to international trade and assess the options for increasing and securing export markets, especially in the US. According to Derek Burney, then Assistant Undersecretary for Trade and Economic Policy, “it presented various options but stopped short of any recommendation.”<sup>18</sup> Nevertheless, particular fundamental themes dominated the discussion. Trade Minister Lumley (who was replaced by Gerald Regan in 1983) emphasized that it was essential for Canada “to get things right with the US,”<sup>19</sup> and the *Review* concluded that Canada needed to seek reduced tariff and non-tariff barriers to promote an increasingly secure and enhanced trade relationship with the United States.<sup>20</sup> This was crucial for enhancing the profitability of Canadian businesses, improving employment opportunities, and achieving economies of scale with its trading partners.<sup>21</sup> Preserving the relationship with the US meant working to ensure that contingency protection adhered to international rules.<sup>22</sup> The *Review* briefly entertained the notion of a bilateral FTA with the US, but believed that any such impetus would likely be denied because of persistent political worries about Canadian sovereignty.

The legitimacy of international trade laws under the GATT accounted for increasing skepticism in the *Review*. The GATT “is showing signs of age,” it observed. “It has been unable to contain and manage the unanticipated proliferation of preferential trade agreements. It has not

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<sup>16</sup> Ibid, 195.

<sup>17</sup> DEA, *Canadian Trade Policy*, 28.

<sup>18</sup> Burney, *Getting It Done*, 64.

<sup>19</sup> Ibid, 63.

<sup>20</sup> DEA, *Canadian Trade Policy*, 2, 28.

<sup>21</sup> Ibid, 28.

<sup>22</sup> DEA, *Review*, 213.

come to grips with...the complete range of non-tariff measures which increasingly affect trade, production and investment.”<sup>23</sup> This point was corroborated by Burney, who agreed with the characterization of the GATT as a “sheriff without a police force” that had trouble governing trade solutions in the 1982 multilateral meetings.<sup>24</sup> Under the GATT, member countries were permitted to impose tariffs or NTBs if imports “cause or threaten serious injury to domestic producers,” subject to GATT’s principles of non-discrimination and national treatment.<sup>25</sup> The 1982-1983 *Trade Policy Review* made several important statements of concern regarding increasing American protectionism, the inadequacy of the GATT in limiting protectionist measures, and the imperative for Canada to improve its trading relationship with the US. Its closest recommendation to a bilateral pact came in the realm of sectoral-agreements in problem sectors, such steel and urban transportation equipment, which faced highly restrictive barriers.<sup>26</sup> A comprehensive FTA with the US was not considered a viable policy solution, but American protectionism was at the forefront of Canada-US trade policy considerations.<sup>27</sup>

From 1982 to 1983, rumblings about increasing US protectionism were not confined to the DEA’s trade experts in Ottawa. Allan Gotlieb, Canada’s Ambassador to the United States, kept a watchful eye on the developing macroeconomic trade scenario between the two nations. In his *Washington Diaries*, Gotlieb recounted that briefing the Deputy Ministers in Ottawa on mounting US protectionist sentiments in August 1982 “was like giving them news from Mars: ‘The United States is becoming more inward looking and protectionist. This is not an aberration, it’s a long-term trend, based on far-reaching demographic and economic trends.’”<sup>28</sup> As the *Trade*

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<sup>23</sup> Ibid, 175.

<sup>24</sup> Burney, *Getting It Done*, 74. Burney noted that this description of the GATT belonged to Roy Denham, the EEC’s ambassador to GATT.

<sup>25</sup> DEA, *Review*, 177, quoted from GATT.

<sup>26</sup> DEA, *Canadian Trade Policy*, 42-46.

<sup>27</sup> DEA, *Review*, 239.

<sup>28</sup> Allan Gotlieb, *The Washington Diaries, 1981-1989* (Toronto: McClelland and Stewart, 2006): 87.

*Policy Review* took form that summer, Gotlieb's warnings must have been heeded given the focus on US protectionism in the document. In Washington, Gotlieb had direct access to a plethora of political contacts which he used to gauge mounting trade attitudes. In his discussions about trade with officials in both Ottawa and the American capital, Gotlieb believed Canada was in a precarious dilemma: "I analyzed what was happening in Congress, the sweeping protectionist attitude, the bills that could damage Canada on uranium, trucking, telecommunications and so on."<sup>29</sup> He recorded in his diary that the Americans wanted a fragile and divided Canada, and the moods of Congress members were quite disturbing. "Congress is in deep trouble, as is the United States, as is Canada..." Gotlieb noted after a dinner meeting. "The anti-foreign attitude was palpable and made me very uncomfortable."<sup>30</sup> He feared that "neo-protectionism" was growing, rising and perilous for Canada.<sup>31</sup>

The *Globe and Mail* also reported on key trade policy developments in the US. In October 1982, President Reagan signed a trucking law that restricted trans-border trucking permits to Canadian businesses as a result of lobbying from American motor carriers who insisted that Canadian companies "had been given an unfair advantage in the trans-border trucking business since trucking regulations were eased (in Canada)."<sup>32</sup> Ambassador Gotlieb, unimpressed with this NTB, commented that the law was not only discriminatory to corporations dependent on trans-border trucking, "but has already cost Canadian companies tens of millions of dollars in legal costs and lost revenues."<sup>33</sup> John King, a spirited *Globe and Mail* commentator, warned Canadians that the US protectionist "bogeyman" of the Smoot-Hawley Era was back to

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<sup>29</sup> Ibid, 75.

<sup>30</sup> Ibid, 88, 94.

<sup>31</sup> Gotlieb never explicitly described what he meant by the term "neo-protectionism" in his diaries. However, one might reasonably infer that he was referring to NTBs as opposed to traditional tariffs, as alternate forms of protectionist restrictions.

<sup>32</sup> John King, "Ambassador Criticizes U.S. Trucking Restrictions," *Globe and Mail*, 2 October 1982, B16. Author's parenthesis.

<sup>33</sup> King, "Ambassador Criticizes U.S. Trucking Restrictions," B16.

haunt Canada: “Canadian officials are worried by U.S. protectionism, much of which is couched in terms of ‘reciprocity,’” he noted, “which would have the United States retaliate in kind against trade restrictions by other countries.”<sup>34</sup> King cited the many protectionist bills introduced in Congress throughout 1982 which “are likely to be revived in 1983 that aim directly at blocking some of the Canadian exports to the United States, which totaled \$55.4 billion in 1981.”<sup>35</sup> King also quoted United States Trade Representative (USTR) William Brock, a free trade proponent, arguing that Congressional protectionism was simply the consequence of political expediency. Politicians were looking for a scapegoat for the United State’s trade problems, which ultimately created the sweeping wave of protectionism.<sup>36</sup>

Canadian politicians continued to analyze US trade policy throughout 1983. In an address on economic nationalism, Gerald Regan, new Minister of International Trade, asserted that nationalistic policies were inevitable for many countries. Moreover, special protectionist measures could and were being used by countries to restrict foreign economic influence.<sup>37</sup> Regan referred to the large US defence procurement of the specialty steel market as a prime example of US restrictions on foreign imports that hurt competitors. He contended that “there is a greater tendency now to blame our economic woes on ‘unfair’ competition from abroad and to justify protective measures by the fact that others are also resorting to them,”<sup>38</sup> concluding that if governments want to avoid a 1930s-like depression they had to resist the lure of protectionism against tough foreign competitors.<sup>39</sup> Meanwhile, research for the Royal Commission on Canada’s economic future, led by former Liberal Finance Minister, Donald S. Macdonald, was

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<sup>34</sup> John King, “Protectionist Bogeyman Making Strides,” *Globe and Mail*, 23 December 1982, 11.

<sup>35</sup> King, “Protectionist Bogeyman,” 11.

<sup>36</sup> *Ibid*, 11.

<sup>37</sup> Gerald Regan, *Economic Nationalism: An Address by the Honourable Gerald Regan, Minister of State (International Trade), to the Bankers’ Association for Foreign Trade, San Juan, Puerto Rico, April 13, 1983* (Ottawa: Department of External Affairs, 1983): 1-2.

<sup>38</sup> Regan, *Economic Nationalism*, 9.

<sup>39</sup> *Ibid*, 9.

conducted from 1983 to 1985. The findings would have a profound impact on Canadian trade policy.

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“Free trade with the United States is like sleeping with an elephant. It’s terrific until the elephant twitches, and if the elephant rolls over, you’re a dead man.”<sup>40</sup> These words, uttered by Brian Mulroney during his 1983 Conservative Leadership Campaign in Thunder Bay, Ontario, describe Mulroney’s initial feelings on free trade. “I’ll tell you when he’s going to roll over – he’s going to roll over in times of economic depression,” he continued, “and they’re going to crank up the plants in Georgia and North Carolina and Ohio and they’re going to be shutting them down here.”<sup>41</sup> Mulroney illustrated a growing skepticism with Canada-US trade relations and the potential influence American trade tendencies could have on Canada. Ironically, the basic thrust of the protectionist-elephant analogy was later used by Mulroney to *promote* stronger bilateral economic ties. By developing a better relationship with the large US economic “elephant,” Mulroney promised that the chance of being squashed would diminish.

Mulroney’s conversion toward a comprehensive bilateral free trade initiative was gradual and pragmatic, not ideological. As the Leader of the Opposition in June 1984, Mulroney met with US Commerce Secretary Malcolm Baldrige and President Reagan to promote better trade relations between the two countries, given pending steel legislation restricting steel imports from foreigners to 17 percent of the US market.<sup>42</sup> Mulroney expressed his dissatisfaction with the proposed bill to Baldrige, calling the steel import restrictions “protectionist” measures that only

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<sup>40</sup> Peter C. Newman, *The Secret Mulroney Tapes: Unguarded Confessions of a Prime Minister* (Toronto: Random House Canada, 2005): 181, quoted.

<sup>41</sup> Newman, *Secret Mulroney Tapes*, 181-182.

<sup>42</sup> William Johnson, “Protectionist Policies Harm Canadian Jobs, Mulroney Says in U.S.,” *Globe and Mail*, 21 June 1984, 1-2.



strained the Canada-US trade relationship.<sup>43</sup> After their meeting, Mulroney emphasized to the press that millions of Canadian jobs were tied to access to US markets and stressed “Canada’s dependence on the United States as a market for exports, hence the need for good relations.”<sup>44</sup> At his meeting with Reagan, Mulroney retained his anti-protectionist position, but created a more hopeful mood for the important Canada-US relationship, emphasizing the need for the two nations to be both friends and allies.<sup>45</sup> Nevertheless, American protectionism undoubtedly led Mulroney to reconsider the Canada-US trade relationship. Although he did not yet consider a bilateral pact as a feasible response to US protectionism, the threat it posed loomed in his mind even as Opposition Leader.

Soon after being elected into office on 4 September 1984 with the largest majority in Canadian history, Mulroney met with Reagan in Washington in hopes of mending the trade relationship between the two countries. He assured the president that if bilateral issues had been neglected under Trudeau, they would not be under his leadership.<sup>46</sup> The *Montreal Gazette* reported that, at the meeting, Mulroney “will likely seek greater access for Canada to the U.S. market and an end to Washington’s threats to squeeze Canadian imports through protectionism.”<sup>47</sup> This was not the new prime minister’s essential goal, however. Instead, both leaders emphasized the fundamental importance of the Canada-US economic relationship. Reagan referred to Canada as “America’s neighbor, ally and most important economic partner, and great friend,” much to Mulroney’s approval.<sup>48</sup> According to Derek Burney, “although

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<sup>43</sup> Johnson, “Protectionist Policies,” 1.

<sup>44</sup> *Ibid.*, 2.

<sup>45</sup> William Johnson, “Operation Charm a Success, Mulroney Winds Up U.S. Visit,” *Globe and Mail*, 23 June 1984, 1-2.

<sup>46</sup> Terrance Wills, “PM Moves Fast On Economic Ties With U.S.,” *Montreal Gazette*, 19 September 1984, A1.

<sup>47</sup> Wills, “PM Moves Fast,” A2.

<sup>48</sup> William Johnson, “Canada-U.S. ‘Special Ties’ Resurface in Leaders’ Talks,” *Globe and Mail*, 27 September 1984, 13.

Mulroney believed that good relations with the United States were in Canada's best interest, this did not mean that he had an ideological affinity with the US administration."<sup>49</sup>

The 1984 *Trade and Tariff Act* became US law on 9 October 1984. This gave the president power to negotiate agreements reducing tariff and non-tariff barriers with other countries. Although Canada was not explicitly listed in this provision, the law was significant because it provided the legal basis on which the CUSFTA was eventually negotiated.<sup>50</sup> It also contained several potentially troublesome protectionist measures, including broader terms for the US to determine "whether U.S. industry has been harmed by alleged foreign subsidies," and the right for the US to retaliate if the "right of establishment" was barred from US investments in another country.<sup>51</sup> Although the *Globe and Mail* and *Winnipeg Free Press* claimed that Canadians were "happy" with the trade bill because it was less-protectionist than the Americans originally intended and kept open the possibility of negotiating trade agreements, it still contained potentially harmful protectionist stipulations.<sup>52</sup>

In late summer of 1984, Mulroney warmed to the idea of an extensive bilateral FTA with the United States. A Special Consultants report on an FTA with the US submitted to the Macdonald Commission urging "caution in approaching the issue" did not dissuade Mulroney.<sup>53</sup> "Privately, I was beginning to conclude that Donald Macdonald had it right," he recalled in his memoirs. "Canada would have to take a 'leap of faith' into free trade. In the ever-changing, ever-shrinking globalized world, I was becoming convinced that we would have to face the issue."<sup>54</sup>

Mulroney seriously considered the advice of Donald Macdonald, chairman of the *Royal*

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<sup>49</sup> Burney, *Getting It Done*, 70.

<sup>50</sup> Jennifer Lewington, "Canadians Happy with U.S. Trade Bill," *Globe and Mail*, 11 October 1984, 12; Gotlieb, *Washington Diaries*, 252.

<sup>51</sup> Lewington, "Canadians Happy," 12.

<sup>52</sup> Norma Greenaway, "Trade Bill Pleases Embassy," *Winnipeg Free Press*, 12 October 1984, 58.

<sup>53</sup> Mulroney, *Memoirs*, 382-383.

<sup>54</sup> *Ibid*, 383.

*Commission on the Economic Union and Development Prospects for Canada*. Prior to the official release of what came to be known as the “Macdonald Report,” Macdonald publicly stated that Canada needed the faith to pursue a bilateral FTA with the United States.<sup>55</sup> He argued, *inter alia*, that an FTA was the only way to protect Canada from discriminating US trade laws that favoured the consumption of American products by federal and state governments. Macdonald similarly concluded that Canadian firms could only compete in the US market with an FTA and a new system of negotiating and solving trade disputes between the two countries.<sup>56</sup>

Mulroney’s position on a comprehensive CUSFTA was also influenced by Derek Burney, Joe Clark, and former Alberta Premier, Peter Lougheed. A paper written by Burney in August 1984 caused Mulroney to reconsider the status quo trade policy, or “second option” that sought continued multilateral trade negotiations (MTN) through the GATT and the pursuit of sectoral-arrangements when opportune.<sup>57</sup> This reflected the prime minister’s appreciation for Burney’s strong work ethic and willingness to consider ‘new’ policy ideas.<sup>58</sup> Burney was also a continentalist. “What is the price if we don’t proceed?” Burney asked. “Continue to battle protectionist pressures in an ad hoc manner;...miss opportunity to forge better foundation for predominant trade relationships...rely exclusively on...[the] long-term potential of new MTN.”<sup>59</sup> Ottawa also regarded the second option deficient because the GATT principle of national treatment was being abused by the US (and others) through the increased use of state subsidies, government procurement preferences and contingency protection – *discriminatory* by their very natures. The more frequent use of trade remedies that replaced conventional tariffs was

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<sup>55</sup> William Johnson, “Canada Must Act on Free Trade, Macdonald Says,” *Globe and Mail*, 19 November 1984, 1; “Axworthy Advises Caution,” *Winnipeg Free Press*, 20 November 1984, 12.

<sup>56</sup> Johnson, “Canada Must Act on Free Trade,” 11.

<sup>57</sup> Hart et al, *Decision*, 23-24.

<sup>58</sup> Mulroney, *Memoirs*, 383.

<sup>59</sup> *Ibid*, 384, quoted. Author’s parenthesis.

reinforced by the GATT Tokyo Round, which strengthened the preferential use of non-conventional protective measures. Additionally, the US Congress increasingly sought reciprocal access and treatment by product and country, making Ottawa's reliance on GATT MTN an ineffective strategy in promoting non-discriminatory trade practices.<sup>60</sup>

Shortly after Mulroney took office, Joe Clark, then Secretary of State of External Affairs, sent him a position-letter on relations with the US which stressed that "we are being driven still closer to our neighbour by factors we have difficulty controlling. Protectionist sentiment in the United States today is strong and is unlikely to abate for the foreseeable future." In Clark's opinion, US protectionism was "the single most immediate threat to Canadian prosperity, whether we are the intended target or not."<sup>61</sup> Canada's dependence on access to the US market was so important that he identified "securing this access [as] an overriding priority for Canada's economic development."<sup>62</sup> Moreover, Clark maintained that although there was a cordial spirit between Canada and the US, it was imperative for Canada to recognize that, given the US anxiety over its loss of global trade power, new favourable US trade policies would not apply to Canada unless they first benefited the US.<sup>63</sup>

In 1985, Premier Lougheed's visit to Washington prompted another strong wave of reporting back to Mulroney. After meetings with US cabinet secretaries and Congressional leaders, Lougheed emphasized that the status quo "second option" was no longer viable. Canada was being severely damaged by US protectionism and a CUSFTA held the only solution. He was adamant that if Ottawa did not pursue a bilateral agreement by the end of 1985, the opportunity

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<sup>60</sup> Hart et al, *Decision*, 26-27.

<sup>61</sup> Mulroney, *Memoirs*, 384, quoted.

<sup>62</sup> Ibid, 384, quoted.

<sup>63</sup> Ibid, 385.

to do so would be lost.<sup>64</sup> Ian Clark, Deputy Clerk of the Privy Council, also advised Mulroney on Washington's trade mood: "on matters such as steel and softwood lumber, there are signs of increasingly protectionist sentiment, fuelled by the record trade surplus."<sup>65</sup> Clark expressed similar concerns that the Reagan administration was losing its ability to resist protectionist legislation, and emphasized that Canada's opportunity to negotiate an FTA was running short.<sup>66</sup> In Washington, Allan Gotlieb continued to gauge US trade developments. "Canada is beginning to show signs that it cannot simply stand on the slippery status quo," the influential Ambassador observed. "Maybe all my speech-making on the fractured U.S. system, the forces of protectionism, the power of special interests....has not been a waste of time."<sup>67</sup> The re-election of Reagan on 6 November 1984 pleased Gotlieb, who believed that the majority of protectionists, unionists and lobbyists voted Democrat.<sup>68</sup> The Democrats, however, retained majority control in the House of Representatives.

Mulroney did not have an ideological obsession with the notion of free trade. He came to regard US protectionism as a threat to Canadian exporters and a barrier to positive Canada-US trade relations. The elephant analogy from his 1983 speech in Thunder Bay encouraged Mulroney to embrace, in a pragmatic fashion, the idea of an FTA to quell the growing threat of US protectionism.<sup>69</sup>

1985 was a seminal year for the final push toward a bilateral FTA on both diplomatic and policy fronts, during which Mulroney and his administration became convinced that they could sell the idea of free trade to Canadians. Protectionist worries remained at the forefront of the

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<sup>64</sup> Ibid, 385-386.

<sup>65</sup> Ibid, 386.

<sup>66</sup> Ibid.

<sup>67</sup> Gotlieb, *Washington Diaries*, 261.

<sup>68</sup> Ibid, 261-262.

<sup>69</sup> Also see Tomlin, "Leaving the Past Behind." The Burney and Mulroney memoirs further validate the argument that Mulroney pursued an FTA pragmatically as a result of the perceived growth and strength of US protectionism.

Mulroney government's trade policy analyses throughout the year. On 29 January 1985, Minister of International Trade James Kelleher released *How to Secure and Enhance Canadian Access to Export Markets*, a discussion paper on Canada's policy options for securing US market access. Kelleher emphasized Canada's dependence on trade with its southern neighbor (which accounted for 72.9 percent of Canada's total exports in 1983), and that "many see success in the U.S. as a prerequisite to success in world markets."<sup>70</sup> Those considerations, coupled with Kelleher's fear of increasing US protectionism characterized by measures in the lumber, steel, copper, fish, urban transit, cement and agricultural industries, led the Minister and the DEA to conclude that the government was prepared to seek new methods of securing access to the US market, while trying to "define and advance Canadian interests in negotiations."<sup>71</sup> Negotiations were now viewed as a feasible way to reduce Canada's exposure to US protectionism.

At the famous "Shamrock Summit"<sup>72</sup> in Quebec City on 17 and 18 March 1985, Reagan and Mulroney met and discussed Canada-US trade policy. Both leaders agreed on the need to eliminate trade barriers and pledged to combat protectionism in each country.<sup>73</sup> Protectionism was the central issue of the summit for the *Globe and Mail*, which reported in its front page coverage that "the President reassured the Prime Minister he would use all of his energies to preempt any move that would put Canada in peril from protectionism."<sup>74</sup> USTR William Brock and Trade Minister Kelleher were also designated to report back to the leaders in six months with

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<sup>70</sup> Kelleher and DEA, *How To Secure and Enhance*, 7. The US accounted for 72.9 percent of Canadian exports in 1983, with Japan (Canada's second largest market) at 5.2 percent.

<sup>71</sup> *Ibid*, 17, 32.

<sup>72</sup> This two-day meeting came to be termed the "Shamrock Summit" because both Ronald Reagan and Brian Mulroney were of Irish descent and because the first day of the conference was held on St. Patrick's Day, 17 March 1985. "Declaration by the Prime Minister of Canada and the President of the United States of America Regarding Trade in Goods and Services, March 18 1985," In *Canadian Trade Negotiations: Introduction, Selected Documents, Further Reading*, Edited by the Department of External Affairs, Canada (Ottawa: External Affairs, 1985): 13-14.

<sup>73</sup> Peter Stoler, "Canada at the Shamrock Summit," *TIME*, 1 April 1985. Derek Burney was immune to Reagan's free trade rhetoric. In his memoirs, he recounted that "Reagan also believed in free trade, even though the actions of his administration did not always sustain his rhetoric." See Burney, *Getting It Done*, 105.

<sup>74</sup> Quoted from a "senior Canadian official." Graham Fraser, "PM, Reagan Would 'Halt Protectionism,'" *Globe and Mail*, 19 March 1985, 1.

policy recommendations on bilateral trade. The seeds for bilateral negotiations were thus planted, in addition to a pledge from Reagan to reduce Canada's exposure by revising the 1984 *Trade and Tariff Act* so that Canadian specialty steel could be more easily exported to the United States.<sup>75</sup>

Mulroney and Reagan agreed on the fundamental point that restrictions to investment ought to be limited between the two countries, making way for the eventual CUSFTA.

On the policy front, the long anticipated *Royal Commission on the Economic Union and Development Prospects for Canada* final report was released publicly on 5 September 1985. Originally initiated by the Trudeau government to assess Canada's long-term economic viability, twelve of the thirteen commissioners recommended that Canada pursue a comprehensive bilateral FTA with the United States.<sup>76</sup> The risk of US protectionism was a major premise upon which this recommendation was based:

The threat of protection imposed by U.S. Congress is of particular concern to Canada. Any increase in protectionist legislation could hold serious implications for job-creating investment. Even where we are not the principal target we risk being the major victim of a spate of protectionist legislation before Congress.<sup>77</sup>

The report highlighted that dangerous US trade laws were already inhibiting access to the US market, and more protectionist legislation loomed on the horizon:

The issue is more than a potential threat. Existing U.S. trade legislation already allows American companies constantly to harass their foreign competitors. These laws include provisions for imposing countervailing duties against subsidized imports, anti-dumping duties, emergency relief from seriously injurious imports, retaliation against 'unfair' trade practices, and relief from imports deemed prejudicial to U.S. national security.<sup>78</sup>

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<sup>75</sup> Fraser, "PM, Reagan Would 'Halt Protectionism,'" 2.

<sup>76</sup> Burney, *Getting It Done*, 78; Macdonald, *Royal Commission*, 380-385, See "Recommendations."

<sup>77</sup> Macdonald, *Royal Commission*, 247.

<sup>78</sup> Ibid, 247-248; "Canada-United States Trade Negotiations: The Issues and the Process," In *Canadian Trade Negotiations: Introduction, Selected Documents, Further Reading*, Edited by the Department of External Affairs, Canada (Ottawa: Department of External Affairs, 1985): 1-4. This document highlights that in 1984, about \$6 billion of Canadian exports were subject to protectionist measures via quotas, anti-dumping duties, countervailing duties, and surcharges.

The Commission rejected the idea of sectoral-based agreements because they might have violated Article XXIV of the GATT, which “requires that a free-trade agreement remove barriers to ‘substantially all’ the trade between the signatories in order to qualify as a valid preferential agreement.”<sup>79</sup> Moreover, the Commission argued that a sectoral agreement would not gain much public approval, and that industries not included in sectoral arrangements would probably resent the sector-based agreements as being unjust or unfair.<sup>80</sup> The Commission urged that too many NTBs could potentially restrict Canadian access, including discriminatory federal and state procurement practices and the implementation of certain US product standards that intentionally conflict with Canadian standards.<sup>81</sup>

Overall, an FTA with the US was deemed the best possible alternative for improving Canada’s overall domestic economy. Referred to as the “third option” in policy terms, it would facilitate better access to the US market through investment, help rationalize production capacities, and boost economies of scale. Although the tariff cuts from the Tokyo Round were set to be reduced by 1987 and 80 percent of goods already traded duty-free, the Commission argued that even if 15 percent of all goods were subject to 5 percent duties or less, these duties might still discourage new investment in Canada.<sup>82</sup> The Commission recommended bilateral negotiations, and Mulroney followed through.

On the day the Macdonald Report was released, Gotlieb was called to the Prime Minister’s Office. A private plane was sent to Washington to pick him up. Once in Ottawa, Mulroney revealed to Gotlieb that an extremely important policy decision had been made:

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<sup>79</sup> Macdonald, *Royal Commission*, 304.

<sup>80</sup> *Ibid*, 305.

<sup>81</sup> *Ibid*, 315

<sup>82</sup> *Ibid*, 311.



Canada would pursue an FTA with the US.<sup>83</sup> On 26 September 1985, Mulroney formally announced his intentions to Canadians. In an address to the House of Commons, the prime minister emphasized that the best remedy for the problem of ever-growing US protectionism “lies in [a] sound agreement, legally binding, between trading partners, to secure and remove barriers to their mutual 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.”<sup>84</sup> *The Toronto Star* reported that “Mulroney warned that Canada’s economy will face a continuing threat from protectionist trade barriers unless strong action is taken to reduce them”<sup>85</sup> and that “common sense dictates a need to remove tariffs, quotas and other trade barriers if Canada is to create new jobs and save its exports industries from the threat of increasing U.S. protectionism.”<sup>86</sup> Reducing protectionism was not promoted for its ideological value. It was always connected by policy makers to fundamental aspects of Canada’s macroeconomic well-being in terms of job security, investment, and achieving economies of scale.

Mulroney appointed Simon Reisman, former Canada-US Auto Pact negotiator and policy adviser to Liberal leader John Turner, as Canada’s chief trade negotiator on 8 November 1985.<sup>87</sup> The negotiating team had several key objectives directly related to US protectionism. They wanted to *secure* market access through new rules and definitions that limited the application of trade remedy laws, *enhance* access to the US market through easier entry into government

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<sup>83</sup> Gotlieb, *Washington Diaries*, 318. Gotlieb wrote in his diary: “I said I welcomed his decision, it was a bold and courageous one, and I would work for it with great enthusiasm.”

<sup>84</sup> Brian Mulroney, “Statement by Prime Minister Brian Mulroney on Canada-USA Trade Negotiations,” In *Canadian Trade Negotiations: Introduction, Selected Documents, Further Reading*, Edited by the Department of External Affairs, Canada (Ottawa: Department of External Affairs, 1985): 73-76. Author’s parenthesis. Mulroney also referred to the 1930s as an example of how dreadful protectionism could be and contended that it exacerbated the depressive economic conditions. The pursuit of bilateral negotiations, from Mulroney’s point of view, represented a resistance to strong protectionist forces. Limiting protectionism was therefore *paramount* in the development of Mulroney’s views on Canada-US trade relations.

<sup>85</sup> Martin Cohn, “U.S. Trade Deal Will Save Jobs, Mulroney Says,” *Toronto Star*, 27 September 1985, A1.

<sup>86</sup> Cohn, “U.S. Trade Deal,” A1.

<sup>87</sup> David Stewart-Patterson, “Ottawa’s Free Trade Envoy Vows Lean Team,” *Globe and Mail*, 9 November 1985, A1.

procurement markets, and broaden tariff reduction over time. They also wanted legalized access to the US market through a dispute settlement mechanism for fair conclusions to differing trade practices of both countries and a legal agreement that would “enshrine mutual obligations and accommodate differences in two governmental systems.”<sup>88</sup> Reisman was also a staunch opponent of US protectionism and stressed that the GATT was inadequate in reducing trade barriers: a belief he shared with Mulroney and DEA.<sup>89</sup> So began a national debate on the merits and disadvantages of a bilateral pact with the United States. US protectionism remained a core issue. “The argument over free trade has begun again,” historian Desmond Morton quipped in September 1985, reflecting back to the election of 1911. “It will not end soon.”<sup>90</sup>

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The Canadian debate leading up to the CUSFTA signed on 2 January 1988 was all-encompassing, divisive and emotional. News on the negotiations and Canadian-US trade relations received front page coverage in newspapers across Canada. The issue preoccupied Canadians from East to West, drawing commentary from academics, private sector business, labour groups, women’s groups, churches, and Native people.<sup>91</sup> The potential benefits and burdens of an FTA were heavily debated. Canadians who opposed an agreement were primarily concerned with the possible erosion of Canadian sovereignty and social values, and the potential economic and cultural consequences of tighter ties to the US. Proponents of an agreement emphasized the need to improve Canada’s productive capacity and the growing imperative to overcome existing and pending US protectionist legislation. In their reasoning, this was the only

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<sup>88</sup> DEA, “Canada-United States Trade Negotiations,” 3-4.

<sup>89</sup> Simon Reisman, “Canadian Trade at the Crossroads: Options for New International Agreements, Trade Policy Options in Perspective: Address to Ontario Economic Council, 16 and 17 April 1985,” Library and Archives Canada (LAC) MG31 E 112 Vol 4 File 14, 9-10.

<sup>90</sup> Desmond Morton, “Will the Current Debate on Free Trade be a Replay of 1911?” *Toronto Star*, 23 September 1985, A14.

<sup>91</sup> Hart et al, *Decision*, foreword by Donald S. Macdonald; Laurier LaPierre (Ed), *If You Love This Country: Facts and Feelings on Free Trade* (Toronto: McClelland and Stewart, 1987).

way to increase employment and investment in Canada, and to ensure long-term economic growth.<sup>92</sup>

The pursuit of an FTA with the United States was heavily based on the premise that an agreement would help secure, enhance and legally bind Canadian access to the US market. By extension, the issue of US protectionism frequently arose in the debate. Existing historiography has tended to ignore the *debate* on US protectionism, especially from the perspective of opponents to an agreement. Not all Canadians viewed US protectionism as a vital problem that justified an FTA. The historiography has implicitly assumed that all Canadians in the 1980s perceived US protectionism as a dangerous threat to Canadian economic sustainability. A more careful reading of the evidence reveals that it also prompted opposition to an FTA.

By late 1985, criticisms of the free trade initiative began to emerge with great force. Political scientists Daniel Drache and Duncan Cameron published an edited rebuttal of Macdonald's Royal Commission called *The Other Macdonald Report*.<sup>93</sup> The authors immediately questioned a fundamental idea: "Why does Canadian business need guaranteed access to the American market?"<sup>94</sup> In their view, Canada had the ability to compete for US market share just like other countries who sold products to the US in the face of trade barriers. Drache and Cameron also reaffirmed that protectionism was a normal part of US political life, allowing Congress and the US administration to impose trade remedy law whenever deemed

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<sup>92</sup> Earle Gray (Ed), *Free Trade, Free Canada: How Free Trade Will Make Canada Stronger* (Woodville: Canada Speeches, 1988). This collection is a good primer on the essential arguments in favour of free trade in "speech" format.

<sup>93</sup> "Critics Say Macdonald Report Caves in to Business," *Montreal Gazette*, 14 September 1985, B1.

This section of the chapter refers to many works edited or published by academics. These sources are examined and interpreted as primary sources because they reflect how US protectionism and free trade were perceived *at the time* the negotiations were proceeding.

<sup>94</sup> Daniel Drache and Duncan Cameron, "Introduction," *In The Other Macdonald Report: The Consensus on Canada's Future That the Macdonald Commission Left Out*, Edited by Daniel Drache and Duncan Cameron (Toronto: James Lorimer, 1985): xxiii.

necessary or attractive.<sup>95</sup> *Toronto Star* writer David Crane, a critic of an FTA, made a similar comment by referring to Deputy Assistant USTR William Merkin, who stated that Canada would receive no special exemptions from protectionist US trade law under a potential FTA.<sup>96</sup> For Drache and Cameron, this meant Canada could “ill-afford to become more beholden to American policies and more reliant on the U.S. markets.”<sup>97</sup> The threat of US protectionism would not disappear with an FTA, so why seek a binding agreement?

The Canadian Institute for Economic Policy was also critical of an FTA, and pointed to US protectionism as a valid reason to decline an agreement. Essentially, the institute was skeptical that Canada could attain any more US market share than it would already gain by 1987, after the tariff reductions achieved in the GATT Tokyo Round had been implemented.<sup>98</sup> Additionally, the think-tank was doubtful that an FTA could protect Canada from the large base of US protectionist laws. Whether it was “realistic to expect that free trade agreements can be negotiated that are insulated from these pressures and the related network of nontariff barriers” remained a fundamental worry.<sup>99</sup> Drache and Cameron ultimately concluded that the Macdonald Commission had sold-out to “big business,” in the pursuit of market access while ignoring the potentially negative social, cultural and economic impacts an FTA could have on Canada.<sup>100</sup>

In response to Trade Minister Kelleher’s report on securing US market access, the Brewers Association of Canada was wary of free trade. In its cost-benefit analysis of the likely impacts of removing existing US tariffs, the association concluded that an FTA would not

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<sup>95</sup> Drache and Cameron, *Other Macdonald Report*, xxiii-xxv.

<sup>96</sup> David Crane, “No Special Favours for Canada, U.S. Trade Official Warns,” *Globe and Mail*, 1 October 1985, F5.

<sup>97</sup> Drache and Cameron, *Other Macdonald Report*, xxv; Jack McArthur, “We’re Keyed to U.S. Market Even Without Freer Trade,” *Toronto Star*, 19 November 1985, C1. McArthur makes a case for how tied together the Canadian market is with the US market.

<sup>98</sup> Canadian Institute for Economic Policy (CIFEP), “The Pitfalls of Free Trade,” in *The Other Macdonald Report* (Toronto: James Lorimer, 1985): 132-135.

<sup>99</sup> CIFEP, “Pitfalls of Free Trade,” 133.

<sup>100</sup> “Critics Say,” B1.

produce any net gains for the industry. After all, Canadian beer exports only accounted for a one percent share of the US market.<sup>101</sup> Instead, the association contended that abolishing *Canadian* tariffs supporting the brewing industry would be catastrophic for employment, which could drop 63 percent the first year of free trade.<sup>102</sup> Higher Canadian costs of production and an increasingly competitive US beer market deterred the association from supporting free trade. The lustre of tariff-free access to the US market did not appear beneficial to all industries, particularly those that benefitted from Canadian protectionism.

Other commentators anticipated that certain sectors would benefit greatly from reduced barriers to the US market. Acknowledging the difficulty in attempting to project the potential impact of tariff and NTB reductions, Professor Gilbert Winham at Dalhousie conducted a sector-driven analysis of tariff reductions on Canadian companies. For fish and fish products, barriers imposed on more exotic items such as breaded portions and sticks were substantial, representing a significant barrier. The US's consideration of a CVD against the East Coast fishery "would seriously damage the Atlantic fishery, and hence the regional economy as a whole."<sup>103</sup> The fishing industry would thus benefit from reduced protectionism. The lumber industry, which heavily relied on exports to the US to fund its 30 percent industry overcapacity, faced few tariff barriers at the time. It would be only a minor beneficiary of free trade.<sup>104</sup> The absence of barriers to lumber products would no longer exist within months.

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<sup>101</sup> Brewers Association of Canada, "Response to 'How to Secure and Enhance Canadian Export Markets,'" Submitted to the Department of External Affairs (Ottawa: Department of External Affairs, 1985): 3.

<sup>102</sup> Brewers Association, "Response," 4.

<sup>103</sup> Gilbert R. Winham and David R. Black, *Regional and Provincial Impacts of Canada-U.S. Free Trade* (Halifax: Department of Political Science, Dalhousie University, 1985): 5. Not all industries examined focused on barriers to trade. Other industries analyzed included the petrochemical industry which the authors contended would benefit from an FTA (as well as urban transit), but argued that the manufacturing industries in Ontario and Québec would face the most difficult adjustment to free trade.

<sup>104</sup> Winham and Black, "Regional and Provincial Impacts," 6.

21 and 22 May 1986, the first days of formal free trade negotiations led by Simon Reisman and US trade negotiator Peter Murphy, were a microcosm of the entire free trade issue. Reagan's decision to uphold the US ITC ruling that British Columbia's cedar shakes and shingle exports were injurious to the US industry infuriated the Mulroney government and the BC lumber industry. The resulting 35 percent ad valorem duty imposed on Canadian cedar shakes and shingles, and the launch of a new CVD petition from the lumber lobby seeking injury payments of one billion dollars (about one quarter of total lumber exports to the US), represented one of the darkest days of US protectionism against Canada in the 1980s.<sup>105</sup> By December 1986, softwood lumber was resolved. A 15 percent export tax on Canadian lumber to the US was imposed in exchange for the suspension of the countervail investigation.<sup>106</sup> Mulroney reminisced that the protectionist "chill" of 1986 "swept through Congress like a bitter November wind."<sup>107</sup> US requests for preventive actions against Canadian steel, uranium, subway cars, fish and in Mulroney's opinion, "virtually all... exports south of the border," exaggerated the need for an FTA.<sup>108</sup> The Ottinger Bill that passed US Congress 3 consecutive years also sought to destroy the Auto Pact, the backbone of Ontario's economic prowess.

To make matters worse, the US House of Representatives passed another Omnibus Trade Bill by a decisive vote of 295 to 115, providing yet more ammunition for US protectionism.<sup>109</sup> The bill was continuously revised until 1988, and contained significant changes to Sections 201 and 301 of the 1974 *Trade Act*. Proposed Section 301 changes sought the transfer of authority from the president to the USTR in determining an unfair trade practice or a burden on US

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<sup>105</sup> Terrance Wills, "U.S. Tariff Blow Appalling, PM Says," *Montreal Gazette*, 24 May 1986, A1-A2.

<sup>106</sup> Christopher Waddell, "Letter Says U.S. to Control Terms of Lumber Deal," *Globe and Mail*, 1 January 1987, 1; Burney, *Getting It Done*, 155.

<sup>107</sup> Mulroney, *Memoirs*, 564.

<sup>108</sup> *Ibid.*

<sup>109</sup> "Reagan Vows to Veto Protectionist Measure and Guard Free Trade," *Globe and Mail*, 30 May 1986, A4; Hart et al, *Decision*, 161-2; "U.S. House Passes Bill to Hold Down Imports," *Globe and Mail*, 23 May 1986, A1-2.

industry. It would also require *mandatory* retaliation against unfair trade practices. Changes to Section 201 (safeguards measures) suggested easing requirements of proving “injury” and reducing presidential authority in imposing import relief in such cases. Numerous provisions also sought to make it easier to apply countervail and anti-dumping duties on foreign products. Reisman regarded the possible enactment of the bill as a significant impairment to any FTA signed; the need for an agreement appeared more pronounced given the pending legislation.<sup>110</sup>

The tariff on shakes and shingles upset Mulroney so much that he confided to Gotlieb that “I can’t go forward with the free-trade negotiations.”<sup>111</sup> Gotlieb countered that the “whole affair demonstrates the necessity of a new trade agreement, with new procedures to resolve disputes. The president’s decision shows we need an agreement to avoid unilateral protectionist action.”<sup>112</sup> Burney also wrote in his memoirs that the shakes and shingles experience drove the government’s free trade initiative home. A trade agreement was needed to reduce vulnerability.<sup>113</sup> Mulroney believed that the shakes and shingles experience helped frame the key negotiating strategy for Canada: “The defensive aim of securing existing access to the U.S. market became as vital an objective for our negotiators as the benefits to be derived from more liberalized, tariff-free access,” he reminisced.<sup>114</sup> US protectionist sentiments and measures did not subside with free trade negotiations, and seemed to be on the rise. Whether the shakes and shingles tariff was a fear campaign or negotiating strategy on the part of the US did not matter. The Mulroney government was angered and sought retaliation.<sup>115</sup>

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<sup>110</sup> Debra P. Steger, *A Concise Guide to the Canada-United States Free Trade Agreement* (Toronto: Carswell, 1988): 91-95. Steger was explicitly referring to the 1987 version of the bill.

<sup>111</sup> Gotlieb, *Washington Diaries*, 383.

<sup>112</sup> Ibid.

<sup>113</sup> Burney, *Getting It Done*, 113.

<sup>114</sup> Mulroney, *Memoirs*, 565.

<sup>115</sup> Canada eventually retaliated against the measures and imposed tariffs on books, Christmas trees and tea bags. See Hart et al, *Decision*, 163. This mini “trade war” unofficially ended on 12 June 1986, when Vice-President Bush

Protectionist impulses from the US food industry developed in June 1986. American farmers filed CVD and AD claims that sought to restrict Canadian imports of beef, claiming that \$433 million (Canadian) in imports was putting them out of business. Other producers of pork, potatoes, raspberries and carnations also filed suits.<sup>116</sup> The *Globe and Mail* reported that “countervailing actions have been launched with increasing frequency in recent years.”<sup>117</sup> On Canadian food alone, the US filed ten new suits in 1986, winning countervail claims for live hogs and groundfish, and anti-dumping rulings on raspberries and salt cod.<sup>118</sup> Procedural, actual and potential countervail and anti-dumping threats were perceived as a growing reality in Canada-US trade relations.

In the national debate, James Laxer<sup>119</sup> termed US protectionism “the stick” that free traders used to “beat Canadians with...warning them that rising American protectionism threatens Canada’s access to the US market.”<sup>120</sup> The strident left nationalist argued that Canadian access to the US market was not threatened, as Canada already possessed it. In his view, it was illogical that “insufficient access is a major factor in guiding the behaviour of Canadian business.”<sup>121</sup> The majority of Canadian exports to the US (about three quarters), accounted for a few sectors. The largest, the auto sector, was already covered by the Auto Pact, and the fabricated products sector were “no more vulnerable to the whims of Congress than a comprehensive trade deal would be.”<sup>122</sup> Laxer conceded that the steel industry was subject to restrictive barriers, but that a trade pact would not change the limited growth potential in the

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called for a “truce.” See John Cruickshank, “‘We Don’t Want Trade War,’ Bush Tells Canadian Hosts,” *Globe and Mail*, 13 June 1986, A1.

<sup>116</sup> “Clamor for Protection is on the Rise in U.S.,” *Globe and Mail*, 13 June 1986, A1, B1.

<sup>117</sup> Brian Milner, “More Countervailing Actions Expected,” *Globe and Mail*, 13 June 1986, B1.

<sup>118</sup> “U.S. Trade Actions Vs. Canadian Foods,” *Globe and Mail*, 13 June 1986, B1.

<sup>119</sup> Political economist, former NDP leader hopeful, and York University professor.

<sup>120</sup> James Laxer, *Leap of Faith: Free Trade and the Future of Canada* (Edmonton: Hurtig Publishers, 1986): 51. Chapter 4 is devoted entirely to US protectionism.

<sup>121</sup> Laxer, *Leap of Faith*, 51.

<sup>122</sup> *Ibid*, 55.



industry regardless. Trade irritants such as the 1986 countervailing duties on fish exports from Nova Scotia, resulting from social and economic subsidy programs in Canada, magnified the problem of a trade agreement: the only way to satisfy the US would be to remove the subsidies of transfer payments and equalization grants to the Atlantic provinces, which essentially helped sustain the industry and regional economy.<sup>123</sup> In Laxer's assessment, the benefits of free trade simply did not outweigh the burdens it would impose on troubled industries. When the broad range of Canadian exports were viewed in overall context, Laxer argued that most faced little or no protectionist barriers. "Turning Canadian society inside out to solve these few cases where American protectionism could hurt Canadian producers does not make sense," he insisted.<sup>124</sup>

Laxer argued that there are always trade irritants between countries which would not vanish with a free trade deal. Referencing USTRs, Laxer reemphasized that the US urged from the beginning that they would not remove the possibility of using trade remedies to counteract perceived 'unfair' trading practices of countries.<sup>125</sup> Section 303 of the 1930 *Tariff Act* and Section 301 of the 1974 *Trade Act* authorized the use of countervailing duties for subsidized products.<sup>126</sup> He concluded with the point that the only way Canada could be *fully* exempt from protectionist sanctions was by becoming a part of the United States. In reference to the 300 protectionist bills before the US Congress in 1985, Laxer argued that most of the bills did not have a remote chance of being passed. The nature of US Congressional bills was similar to private members' bills in the House of Commons, he explained: gestures of political expediency

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<sup>123</sup> Ibid, 57.

<sup>124</sup> Ibid.

<sup>125</sup> Ibid, 58.

<sup>126</sup> Ibid.

that should be regarded as an effort to represent a constituency with little likelihood of success.<sup>127</sup>

*The Toronto Star* reported in July 1986 that Canada was the main trade irritant of the United States. Out of 782 international trade bills, about one-third contained protectionist clauses. Of these bills, Japan and Canada accounted for the most provisions, with Canada the highest as the United States' largest trading partner in terms of volume.<sup>128</sup> Of the 134 bills and resolutions that dealt explicitly with Canada, 70 contained protectionist provisions and 10 threatened to impose CVDs on natural resource products.<sup>129</sup> At the same time, 34 bills related to the Canada-US negotiations sought to liberalize trade between the two countries. Although the *Toronto Star* frequently criticized the free trade initiative, a featured article by John Crispo<sup>130</sup> reinforced US protectionism's role in the negotiations. Crispo urged that Canada could not afford to lose any access to the US market since 80 percent of our exports went to the US, representing 20 percent of Canada's GNP. He also framed the free trade debate using binary opposition: "The actual choice facing this country in its trading relations with its neighbour is between freer trade and U.S. protectionism. To suggest otherwise is to ignore growing protectionist elements in U.S. Congress."<sup>131</sup> As long as the US trade deficit remained large, he argued, US protectionism would not subside.

Some opponents argued that stronger multilateral agreements would better serve Canadian interests. Shirley Carr of the Canadian Labour Congress rejected an FTA and emphasized that Canada should pursue freer trade through multilateral GATT negotiations.

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<sup>127</sup> Ibid, 60-61.

<sup>128</sup> Bogdan Kipling, "Canada is Chief Target of U.S. Protectionism," *Toronto Star*, 24 July 1986, E1.

<sup>129</sup> Kipling, "Canada is Chief Target," E1.

<sup>130</sup> Professor of political economy at the University of Toronto's Faculty of Management. John Crispo, "Are Free Trade Foes Distorting Facts?" *Toronto Star*, 10 March 1986, A14; John Crispo (Ed), *Free Trade, the Real Story* (Toronto: Gage, 1988).

<sup>131</sup> Crispo, "Are Free Trade Foes Distorting Facts?" A14.

Canada had become overly dependent on the US market, and should pursue more trade with the large Japanese and Chinese markets. Moreover, Carr argued that the Mulroney government had tried to sell free trade “on fear: fear that Canadians would find the United States market closed to our goods. Instead of a rational multifaceted strategy to deal with this possibility,”<sup>132</sup> Canada was being asked to place its future in the hands of the US economic sustainability.

By contrast, free trade proponent Richard Lipsey, then senior economist at the CD Howe Institute, continued to pound the table on the real threat of US protectionism. American unilateralism, or the US as a one-eyed judge in defining what was a fair and unfair subsidy, alone represented a significant threat for Canada- not only because Canadian exporters were insecure about future exports, but also because firms had strong motive to move to the US.<sup>133</sup> They were “already doing that in numbers that are very worrying to Canadian authorities,” Lipsey observed. “Surveys of investment intentions show that this exodus is likely to grow dramatically.”<sup>134</sup>

Meanwhile, in an effort to promote free trade to Canadians, trade minister Pat Carney touted the idea of increased access to the US market. She argued that free trade would benefit the Canadian consumer in terms that the average Canadian could understand and appreciate.<sup>135</sup> In her memoirs, Carney recalled holding up a package of fish sticks in front of a Vancouver audience. Without the high US tariff barriers on fancier fish products, she proclaimed, “the tariff barriers will be eliminated and we can make higher value products in Canada, which sell for

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<sup>132</sup> Shirley G.E. Carr, “Conservative Trade Policy: The Path That Must be Taken,” In *Canada Not For Sale*, Edited by Tom Axworthy (Toronto: General Paperbacks, 1987): 15-16; a similar argument was made by David Crane, “Canada’s Priority Must Shift to World-Wide Trade Concerns,” *Toronto Star*, 23 August 1986, B2.

<sup>133</sup> Richard Lipsey, “The Economics of a Canada-American Free Trade Association,” In *The Future on the Table: Canada and the Free Trade Issue*, Edited by Michael D. Henderson (North York: Masterpress, 1987): 40.

<sup>134</sup> Lipsey, “The Economics,” 40-41.

<sup>135</sup> Patricia Carney, *Trade Secrets: A Memoir* (Toronto: Key Porter Books, 2000): 231.

higher prices and create more jobs.”<sup>136</sup> Doing the same thing with a woman’s purse, baby outfit, jean skirt and teddy bear, she tried to convince the audience of the benefits of an FTA.

On 23 September 1987 the free trade negotiations hit rock bottom. To Reisman’s dismay, Canada walked away from the negotiating table for reasons relating to the fundamental Canadian goal: getting secured access to the US market. A frustrated Reisman stalled negotiations due to the absence of a dispute settlement mechanism, or binding mode of resolving trade disputes between the two countries based upon definitions of fair and unfair subsidies leading to trade remedies.<sup>137</sup> The *Globe and Mail* quoted Reisman explaining that talks stalled over “access to the market, issues that have to do with security of that access, issues that have to do with dispute settlement.”<sup>138</sup> Mulroney’s press office stated that the failure of US negotiators to propose a dispute settlement mechanism was the “most basic issue of all.”<sup>139</sup> Canada was not willing to sign just *any* agreement. The importance of reducing Canada’s vulnerability to US protectionism was fundamental to Canada’s pursuit of a bilateral agreement. A dispute settlement mechanism was vital. When the US eventually proposed one, this move was crucial to the completion of the CUSFTA.

The Canadian Centre for Policy Alternatives criticized the FTA, arguing against what it perceived to be the exaggerated myth of US protectionism. An Ottawa consultant, Morris Miller, believed that the protectionist “bogeyman” had been greatly exaggerated. Miller provided a fresh rebuttal in asserting that the United States had no choice *but* to reduce its protectionist policies. For Miller, global economic trends indicated that the US could not continue to increase protection:

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<sup>136</sup> Carney, *Trade Secrets*, 231.

<sup>137</sup> Ibid, 235-237; Gotlieb, *Washington Diaries*, 485-487; Mulroney, *Memoirs*, 568; Christopher Waddell and Jennifer Lewington, “Canada Breaks Off Free Trade Talks,” *Globe and Mail*, 24 September 1987, A1.

<sup>138</sup> Waddell and Lewington, “Canada Breaks Off,” A1.

<sup>139</sup> Ibid, A18, quoted.

Third World debtor countries rely on the American market to absorb 70 percent of their exports. In the case of the Latin American states 90 percent of their foreign exchange earnings come from the U.S. market. Shutting these countries out of the U.S. market would have the effect of cutting off their capacity to service immense debts owed to U.S. banks. Hence, a dramatic move towards protectionism by the U.S. would have the effect of setting in motion events with nasty ramifications for the U.S. and world economies.<sup>140</sup>

Miller also asserted that since the US went from being the world's largest creditor nation to the world's largest debtor nation, Washington would need "cooperation from the world in order to extract itself from the current difficulties."<sup>141</sup> He also noted that a recession in the US would automatically mean a recession in Canada, with "disastrous effects, creating enormous strains in our trading relationship and increasing the damaging effects of countervailing and other non-tariff measures."<sup>142</sup> Miller believed that greater access to the US market was not attainable, and that an agreement would merely integrate Canada with the US more so. US political life was *defined* by politicians who respond to their constituents' short-term needs. Closer US ties would not lessen Canada's vulnerability.

*Toronto Star* commentator David Crane also suggested several means of dealing with US protectionism aside from a bilateral pact. American protectionism was "understandably frightening,"<sup>143</sup> he acknowledged, but it had to be kept in perspective. Crane pointed out that despite the US protectionist bills, "Canadian exports are running at record levels and much of our economic recovery since the 1982 recession has been due to a huge growth in exports to the

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<sup>140</sup> Morris Miller, "The Mulroney-Reagan Accord in a Global Perspective: The Question of Alternatives," In *Alternatives to the Free Trade Agreement*, Edited by Mel Watkins (Ottawa: Canadian Centre for Policy Alternatives, 1988): 3. Also see a criticism of an FTA on the resource industry by Thomas Gunton, "Natural Resources and the Canada-U.S. Free Trade Agreement," In *Alternatives*, 1-15; Duncan Cameron, Stephen Carlson and Mel Watkins, "Market Access," In *The Free Trade Deal*, Edited by Duncan Cameron (Toronto: James Lorimer, 1988): 46-58; Michael Bradfield, *The Free Trade Claims: Smoke and Mirrors* (Ottawa: Canadian Centre for Policy Alternatives, 1988).

<sup>141</sup> Miller, "The Mulroney-Reagan Accord," 4.

<sup>142</sup> *Ibid*, 5.

<sup>143</sup> David Crane, "Free Trade is Not the Only Way to Ward Off U.S. Protectionism," *Toronto Star*, 22 August 1987, B2.

U.S.”<sup>144</sup> If the US was as protectionist as the free traders urged, the Canadian economy would be in shambles, not improving. Moreover, the US was a “driving force” toward further MTN through the GATT Uruguay Round. The US economy *depended* on new rules with Japan, the European Economic Community (EEC), and Third World more than it did with Canada. Crane called the protectionist mood “temporary.” Even if the US did pass a severely protectionist bill, he highlighted the 1971 example where Nixon put a 10 percent import tax on dutiable items which was retracted partly because of pressure from Japan, Canada and the EEC.<sup>145</sup>

Allan Gotlieb would have scoffed at Crane’s assessment. In the Ambassador’s view, US protectionism was “still alive and well in the United States.”<sup>146</sup> Congress’ initial failure to pass the Omnibus Trade Bill of 1987 by Reagan did not signify protectionism’s demise. Other existing measures still threatened Canadian exporters. What was more frightening for Gotlieb was that while the US economy had “expanded impressively over the last five years”<sup>147</sup> and unemployment decreased, protectionism and US trade deficits had increased. Another US recession would result in more retreats back to protectionism if Canada did not have an FTA in place.<sup>148</sup> Gotlieb referred to economists’ forecasts that the US would hold back over 30 percent of trade using restrictive government measures by 1990, compared to 5 percent of US trade that faced regulatory administration in the mid-1970s.<sup>149</sup> For Gotlieb, the long-term threat of US protectionism was sufficient reason to stick with the plans for a CUSFTA. An agreement would help circumvent any future protectionist bills accepted by the US administration.

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<sup>144</sup> Crane, “Free Trade is Not Only Way,” B2.

<sup>145</sup> Ibid.

<sup>146</sup> Allan Gotlieb, “The Politics of Protectionism in the U.S.,” In *Free Trade, Free Canada*, Edited by Earle Gray (Woodville: Canadian Speeches, 1988): 112.

<sup>147</sup> Gotlieb, “The Politics of Protectionism,” 116.

<sup>148</sup> Ibid.

<sup>149</sup> Ibid, 117.

At the height of negotiations in the fall of 1987, bilateral compromises allowed Canada to receive its crucial dispute settlement mechanism in exchange for US demands for liberalized access to Canadian investment and financial services.<sup>150</sup> With these concessions made by Secretary James Baker and Derek Burney late in the negotiations, the two nations struck a deal. This large achievement was met with an onerous challenge – Mulroney had to sell the agreement to Canada. The 1988 Federal election centered on the already drafted and signed CUSFTA. Mulroney’s promise to officially implement the agreement into Canadian law if elected was countered by Turner and Broadbent’s proposals to completely abolish the agreement, who promised to work hard to “kill the deal, which they say will destroy the country,” the *Montreal Gazette* reported.<sup>151</sup> The infamous 1987 Omnibus Trade Bill brewing in Congress (which Reagan eventually signed in 1988) intensified the question about the strength of US protectionism.<sup>152</sup>

The standard arguments surrounding US protectionism and the CUSFTA continued ad nauseam. Opposition Leader Turner urged Canada to look to the markets of the Far East and Europe because the US did not want free trade, but fair trade: “And by fair trade, they mean fair to them according to their own rules.”<sup>153</sup> Moreover, Turner attacked the Canadian negotiating strategy, contending that Canada should have “sought a freeze on U.S. protectionist trade measures as a precondition.”<sup>154</sup> Deputy Trade Negotiator Gordon Ritchie argued that if the House of Commons did not pass the CUSFTA, the forces of US protectionism, “which we

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<sup>150</sup> Carney, *Trade Secrets*, 237; Burney, *Getting It Done*, 119.

<sup>151</sup> “Protests, Celebrations Mark Signing of Free-Trade Deal,” *Montreal Gazette*, 4 January 1988, A1.

<sup>152</sup> Michael Hart, *A Canadian Perspective on the 1987 Canada-US Free Trade Agreement* (Ottawa: Centre for Trade Policy and Law, 1989): 9.

<sup>153</sup> Michael Doyle, “Look Beyond U.S. for Trade, Turner Says,” *Montreal Gazette*, 1 October 1987, B7.

<sup>154</sup> Doyle, “Look Beyond,” B7.

caught napping this time, will be gunning for us.”<sup>155</sup> The day Bill C-130 (which included many provisions of the CUSFTA) was voted on in the House of Commons, a chaotic scene erupted. Opponents of the deal stood and sang “O Canada” in objection to an agreement which they saw as eroding the nation.<sup>156</sup> Regardless, the Mulroney-led Progressive Conservatives were re-elected on 22 November 1988. The *Globe and Mail* headline demonstrated the importance of free trade in the election:

“Conservative majority; voters back trade deal.”<sup>157</sup> A new chapter in 20<sup>th</sup> century Canada-US trade relations had begun.

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Fear of increasing US protectionism was crucial in the formation and eventual shift in Canadian international trade policy from the Trudeau to Mulroney governments. The DEA’s analysis of US protectionism led it to reconsider the “second option” multilateral approach Canada had been pursuing through the GATT in order to improve Canada’s access to the increasingly vital American market. Mulroney’s decision to pursue the third option, a bilateral free trade agreement with the US, was not based on an ideological belief in free trade. Rather, it grew from changing circumstances and perceptions of US tariff and non-tariff barriers to Canadian products, and the proliferation of restrictive bills appearing in an increasingly protectionist US Congress. These fears, and an overall climate of uncertainty reinforced by the US’s imposition of trade barriers prior to and during negotiations with Canada, propelled arguments that promoted an FTA. The success of the 1965 Auto Pact also highlighted the

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<sup>155</sup> Kenneth Kidd, “‘No’ to Free Trade Invites New Attack by Protectionists, Negotiator Warns,” *Toronto Star*, 17 October 1988, B2.

<sup>156</sup> Christopher Waddell, “Commons Sends Free-Trade Legislation to Senate,” *Globe and Mail*, 1 September 1988, A1, A8.

<sup>157</sup> Susan Delacourt and Christopher Waddell, “Conservative Majority; Voters Back Trade Deal,” *Globe and Mail*, 22 November 1988, A1.



possible benefits of a liberalizing agreement. Furthermore, the *international* trend toward protectionism of the 1980s, with increased trade barriers from the US, to Europe and the Pacific Rim, forced Ottawa to reconsider its global trade position as a largely export-driven economy.

US protectionism also influenced Canada's negotiating strategy. The main goals of securing, enhancing and legally binding the reduction of tariffs and NTBs were so crucial that Reisman halted negotiations when the US failed to propose a dispute settlement mechanism - an element perceived as essential for solving trade friction between the two countries as a result of conflicting definitions of acceptable subsidies. NDP critics argued that Canada should have sought full exemption from US trade remedies in negotiations. Reisman was not willing to surrender Canada's own trade remedy laws and therefore could not request that of the Americans.<sup>158</sup>

The overarching national debate on free trade throughout 1985 to 1988 frequently addressed US protectionism. Proponents and critics of an agreement looked at the state of US trade politics and policy and arrived at different conclusions. Many critics, whose points of view have been missing in the historiographical debate, considered American protectionism a genuine threat that proved Canada should look elsewhere to expand its trading relationships. Other critics deemed US protectionism a temporary political phenomenon, exacerbated by the 1981-1982 recession, that had no impact on the roughly 80 percent of goods that already flowed tariff-free from Canada to the US. Proponents of free trade urged that US protectionism was not a short-term threat but a long-term reality that diverted investment from Canada and stifled Canada's future prosperity. Canada was inevitably dependent on the large US market and vulnerable to US economic conditions and policies. Free trade offered the only secure insulation.

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<sup>158</sup> David Smith, "Negotiator Takes Shots at NDP," *Vancouver Sun*, 5 March 1988, 5.

The agreement's critics failed to appreciate that Canada did not possess a crystal ball into the future of US trade politics or sentiments and thus could not predict the extent of protection in any new legislation. Reagan had conceded to Congressional protectionism in the softwood lumber and cedar shakes and shingles cases which strained his amiable relationship with Mulroney. More so, it demonstrated that protectionist forces were indeed strong enough to overcome an administration ideologically committed to free trade. The protectionist "bogeyman" was not a complete fabrication. On the other hand, free trade proponents always framed American protectionism in the worst possible manner, often ignoring the liberalizing efforts of the US through MTN and glossing over the distinction between the threat and actual application of US trade remedy laws. Regardless, Canada would not have reduced its vulnerability to the US by rejecting an agreement (as some critics suggested), as long as the two nations continued to trade as the world's largest partners. The two economies had been highly connected for years prior.

Opponents who argued that an agreement was not needed because 80 percent of goods already traded tariff-free between the two countries ignored the fact that new countervail and anti-dumping claims could have been made on any of those products. Canada still remained vulnerable to future trade remedies on previously unrestricted trade. The increase of US trade actions taken in 19 out of 44 trade remedy investigations against Canada between 1980 and 1987 contributed to an eroding trade relationship and further demonstrated the need for an agreement.<sup>159</sup>

The protectionist ghosts of the 1930s haunted Canada and the United States in the 1980s. USTR Clayton Yeutter eventually said of the CUSFTA: "We've signed a stunning new pact with

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<sup>159</sup> John Lester and Tony Morehen. *Trade Barriers Between Canada and the United States*, Working Paper No. 88-3 (Ottawa: Department of Finance, Economic Studies and Policy Analysis Division, 1988): 28.

Canada...the Canadians don't know what they've signed. In twenty years they'll be sucked into the American economy!"<sup>160</sup> Whether Yeutter believed his country's protectionism was just a temporary or long-term phenomenon would be crucial in contextualizing this evocative statement.

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<sup>160</sup> Newman, *The Secret Mulroney Tapes*, 189, quoted.

## Chapter 2: Fortress America? The US Perspective

In a 1983 radio address, Reagan emphasized that the “freer the flow of world trade, the stronger the tides for economic progress and peace among nations.”<sup>1</sup> When leaders disregard that fundamental principle, Reagan argued, they attempt to protect their domestic economies by erecting trade barriers. Instead, they hurt industry as other nations are inclined to do the same – a cycle which ultimately stifles world trade and economic growth. Reagan and many other Americans believed the Great Depression was worsened by protectionist barriers imposed by foreign trade partners which closed markets and stagnated the global economy.<sup>2</sup>

During the 1980s it became increasingly difficult for the Reagan administration, and particularly the US Congress, to adhere to the principles of free trade and anti-protectionism. Increasing competition from the Pacific Rim and expanding trade deficits with the US’s largest trading partners contributed to rising imports and decreasing exports. Declining productivity in key industries and an overvalued US dollar exacerbated export competitiveness in the 1980s. Products of US firms became more expensive due to the dollar’s strength, raising their cost to global consumers. US domestic consumption of imports also increased as imports became cheaper.<sup>3</sup> In 1986, the US trade deficit amounted to \$170 billion: about four times the deficit of 1980. Between those years, exports also declined 2 percent while imports increased 51 percent. The US manufacturing sector was hit hardest, sliding from a \$17 billion surplus in 1980 to a deficit of \$145 billion in 1986.<sup>4</sup> These numbers did not just represent movement of capital, but

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<sup>1</sup>Ronald Reagan, “Radio Address to the Nation on International Trade,” 6 August 1983, *Public Papers of Ronald Reagan* [Accessed April 2009], Available online at:

<http://www.reagan.utexas.edu/archives/speeches/1983/80683a.htm>

<sup>2</sup> Reagan, “Radio Address.”

<sup>3</sup> I.M. Destler, *American Trade Politics: System Under Stress* (Washington: Institute for International Economics, 1986): 76.

<sup>4</sup> “Facts Sheet on Trade,” In *Comprehensive Trade Legislation, Hearings Before the Committee on Ways and Means and its Subcommittee on Trade, International Economic Policy Reform Act and Other Proposals, 100<sup>th</sup> Congress, First Session, February 5, 10, 18, 26, 27* (Washington: U.S. Government Printing Office, 1987): 56; Chris

the gradual shift of jobs from American cities to abroad. Constituents, labour and many in Congress pleaded for protection. The long-standing US commitment to liberalize international trade from 1945 to 1975 was challenged by critics who questioned if it was in America's domestic interest to risk industry sustainability for the benefit of its trading partners while Americans lost jobs. Ironically, the US willingness to feely allow the vast majority of imports in prompted the re-emergence of protectionism as a viable and defensible position in Washington.

Despite these ominous economic conditions, the Reagan administration continued to actively pursue bilateral trade negotiations with Israel (culminating in the 1985 US-Israel FTA), China, Hungary, Taiwan, and Canada. The reduction of trade barriers was additionally sought in the GATT Tokyo Round (1973-9).<sup>5</sup> However, worries about the state of US competitiveness increased in the 1980s. Although the US economy gradually recovered from the 1981-1982 recession, trade problems intensified. Washington often pursued MTN in an attempt to eliminate the perceived unfair trading practices of its partners. The continuous tug-of-war between liberalization and protectionism characterized American trade policy in the 1980s.

The historiography has made significant claims about the growing and perilous threat of US protectionism in the 1980s, but has not supported these assertions using American documents. Because Canadian fears of American protectionism were crucial in Canada's pursuit of a bilateral pact, the threat of US protectionism must be evaluated from an American perspective. This strengthens conclusions about the validity of the premise that a bilateral pact was needed to ensure future competitiveness and secure Canadian access to the US market.

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Carvounis, *The United States Trade Deficit of the 1980s: Origins, Meanings, and Policy Responses* (New York: Quorum Books, 1987): 12-13.

<sup>5</sup> C. Fred Bergsten and William R. Cline, "Trade Policy in the 1980s: An Overview," In *Trade Policy in the 1980s*, Edited by William R. Cline (Washington: Institute for International Economics, 1987): 59.

American perspectives on domestic trade policy help solidify claims about the influence and importance of American trade policy for Canada.

American media and government documents confirm Canadian assertions that US protectionist sentiments and policy measures existed and thrived in Washington throughout the 1980s. The Reagan administration, philosophically in favour of free trade, put in place various protectionist barriers while rejecting others as being too protectionist. US sources also reinforce the distinction between the *threat* of protectionism and the *realized* implementation of protectionist measures. They highlight Reagan's strong overall commitment to resist Congressional protectionism, which often diluted the restrictiveness of new trade legislation. The sources also emphasize a strong support for liberalized trade despite diminishing US competitiveness. Although Congressional protectionism was not strong enough to avert the signing of the CUSFTA, certain protectionist demands were met before Congress voted the CUSFTA into law.

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American anxiety about its international competitiveness, and the protectionist sentiments and legislation that followed, were not new developments in US trade policy. The 1974 *Trade Act* represented a shift toward utilizable contingency protection measures that allowed beleaguered industries to seek import relief on a comprehensive basis, stemming conceptually from protectionist laws devised in the 1920s and 1930s. Section 201 of the *Trade Act*, addressing escape clause mechanisms, allowed the US to conditionally restrict imports from any foreign exporter if the US ITC determined that various standards of injury were met.<sup>6</sup> Section 301 of the

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<sup>6</sup> Stephen L. Lande and Craig VanGrasstek, *The Trade and Tariff Act of 1984: Trade Policy in the Reagan Administration* (Lexington: D.C. Heath, 1986): 16; Gary C. Hufbauer, Diane T. Berliner and Kimberly Ann Elliot, *Trade Protection in the United States, 31 Case Studies* (Washington: Institute for International Economics, 1986): 7.

*Trade Act* gave the president authority to retaliate against “unfair” subsidies in order to put pressure on countries during trade negotiations.<sup>7</sup> These laws, in addition to restrictive measures in the *Smoot-Hawley Tariff Act* and *Anti-Dumping Act*, allowed the US government to impose CVDs and anti-dumping duties (ADs) on foreign products. This provided plenty of legal ammunition for US domestic protection. From 1978 to 1981, the ITC took up on average 93 investigations per annum as the US trade balances moved from surpluses to deficits.<sup>8</sup> Various American industries sought protectionist sanctions prior to Reagan’s presidency. The basic trend toward protection was not particularly new in the 1980s. Rather, it intensified from 1975 to 1988.

A Senate Finance Committee and International Trade Conference in 1980 examined the US’s position in the global marketplace. The dismal trade situation was of utmost concern. “Our trade position has weakened considerably, with deficits appearing even in manufactured goods,” it observed. “Our share of global exports...is now one-third of what it was two decades ago.”<sup>9</sup> A national poll also revealed that Americans believed that the decline in US productivity and competitiveness would take years to reverse.<sup>10</sup> The overall consensus was that, in order for the US to remain competitive, it must seek to increase exports in an aggressive fashion.<sup>11</sup> One conference seminar also indicated that the weakened position of US trade was partly caused by “more favorable government incentives to industries in other countries compared to the United States” and “tariff and non-tariff barriers in some significant markets for U.S. exports in certain

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If the International Trade Commission (ITC) agrees with industry, the industry must then persuade the president that “trade relief serves the national interest more than adjustment assistance or, indeed, no relief at all.” (7)

<sup>7</sup> Lande and VanGrasstek, “*The Trade and Tariff Act*,” 18. This provision could have been used to justify the trade actions against Canada on the first day of formal negotiations. To my knowledge, however, it was not used.

<sup>8</sup> *Ibid*, 16-18.

<sup>9</sup> Russell B. Long (Chairman-Finance) and Abraham Ribicoff (Chairman, International Trade), “Conference on U.S. Competitiveness: Can the United States Remain Competitive?” *The Proceedings of the Conference on U.S. Competitiveness, April 1980* (Washington, U.S. Government Printing Office, 1980): iii.

<sup>10</sup> Long and Ribicoff, “Conference on U.S. Competitiveness,” iv.

<sup>11</sup> *Ibid*, 2.

sectors where the United States is competitive.”<sup>12</sup> Aggressive enforcement of “unfair” trade practices and “greater efforts by government in removing foreign barriers to U.S. exports, with an increased willingness to employ available tools to make continuance of such barriers painful”<sup>13</sup> were deemed as two crucial policy steps toward improved international competitiveness. From a statistical perspective, the value of US imports amounted to \$99.3 billion in 1975. This exploded to \$245.3 billion in 1980. Over that period, US imports covered by special tariff and non-tariff protection increased from 8 percent of total imports to 12 percent.<sup>14</sup> This indicated an increase in overall imports and in subsequent protection on those imports. Cases of protection in the mid-to late-1970s included book manufacturing, ceramic products, canned tuna, colour televisions, orange juice, textiles and apparel, footwear, specialty steel, carbon steel, automobile and motorcycle sectors.<sup>15</sup> Protectionist solutions to America’s trade ills existed prior to Reagan’s induction into office in 1981 in legal and Congressional capacities.

The 1981-1982 recession influenced US trade policy developments from 1983 to 1988 and exacerbated protectionist pressures. US dependence on international trade was obvious, as exports virtually doubled from 4.3 percent of the GNP in 1970 to 8 percent in 1980. By 1981, exports accounted for 20 percent of domestic goods production, in addition to “one out of every seven American manufacturing jobs and, including return for investment overseas, \$1 out of every \$3 earned by American corporations.”<sup>16</sup> In the case of the auto industry, which had been severely undercut by Japan, USTR William Brock criticized Japanese subsidies of its auto

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<sup>12</sup> Ibid, 99.

<sup>13</sup> Ibid, 100.

<sup>14</sup> Gary C. Hufbauer and Howard F. Rosen, *Trade Policy for Troubled Industries* (Washington: Institute for International Economics, 1986): 26.

<sup>15</sup> Hufbauer and Rosen, *Trade Policy for Troubled Industries*, 22-23.

<sup>16</sup> Clyde H. Farnsworth, “Toughening Attitudes on World Trade,” *New York Times*, 8 February 1981, IES3.



industry and complained that “if they want access to our market, by golly, they’ll have to allow us access to theirs.”<sup>17</sup> The Reagan administration eventually imposed stiffer import quotas on Japanese cars exported to the US.<sup>18</sup> Auto sector frustrations eventually caused the Ottinger Bill, which sought to dismantle fundamental aspects of the 1965 Auto Pact.<sup>19</sup> Fortunately for Canada, the bill, passed 3 times through the House of Representatives, never became law.

By December 1981, economists’ projections of the recession’s influence on the global economy indicated that Japan and Canada would be hardest hit by the US’s shrinking share of the world trade pie and by increased US protectionism.<sup>20</sup> The recession was global in nature, which intensified protectionism generally throughout the world. This trickled back into US trade politics.<sup>21</sup> Clyde Farnsworth at the *New York Times* (*NYT*) noticed the substantial growth of domestic protectionism between 1979 and 1982, as indicated by the US Commerce Department’s accusations against Canada and others of competing unfairly. Protectionism also manifested itself in steel anti-dumping relief claims because of allegations that other countries were subsidizing their exports.<sup>22</sup> The US also expressed intense dissatisfaction with Trudeau’s National Energy Program and believed the Foreign Investment Review Act was tremendously stifling for US investment.<sup>23</sup> The *Los Angeles Times* (*LAT*) noted that the Reagan administration was “ideologically dedicated to free trade, but finds itself swept along in a rising tide of protectionism.”<sup>24</sup> The large \$37.9 billion trade deficit and overvalued US dollar hindered US competitiveness. However, conviction was growing “that part of the blame lies with the ‘unfair’

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<sup>17</sup> Farnsworth, “Toughening Attitudes.” IES3.

<sup>18</sup> Leonard Silk, “Economic Scene: Free Traders’ Defeat on Cars,” *New York Times*, 6 May 1981, D2.

<sup>19</sup> Mulrone, *Memoirs*, 564

<sup>20</sup> Kenneth Gilpin, “U.S. Recession: Effect Abroad Muted,” *New York Times*, 26 December 1981.

<sup>21</sup> C. Fred Bergsten, *Trade Policy in the 1980s* (Washington: Institute for International Economics): xiii. See preface.

<sup>22</sup> Clyde H. Farnsworth, “Protectionism,” *New York Times*, 14 February 1982, IES9.

<sup>23</sup> Farnsworth, “Protectionism,” IES9.

<sup>24</sup> Ernest Conine, “Protectionism: Sins and Sinners,” *Los Angeles Times*, 8 February 1982, C9.

trading policies of other countries.”<sup>25</sup> Certain “Buy-Canadian” requirements for US companies invested in Canada, without the same requirements on Canadian companies operating in the US, were cited as a major problem and induced calls for further protection.

According to the *Washington Post (WP)*, the issue that attracted the most American attention aside from taxes and social security was foreign trade. Domestic pressures to subsidize industry and labour increased in mid-1982 alongside concerns about US jobs and profits. Anxiety centered on Japan – the nation contributing the most to the US trade deficit. Car manufacturing workers in Milwaukee believed that the “Japanese” had “stolen” their jobs. The United Auto Workers parking lot in Detroit had a sign that urged its workers to “Park Your Import in Tokyo.”<sup>26</sup> Pressures on industry aggravated by the 1981-1982 recession intensified protectionist sentiments, especially in poorly performing industries.<sup>27</sup> By November 1982, Reagan imposed import quotas on stainless steel products and other types of specialty steels as a result of ITC determinations that imports were substantially injuring the domestic industry.<sup>28</sup> What the *WP* termed the “steel cartel,” could only be damaging to world growth: “new jobs will be scarcer, and pay raises less frequent. Fewer plants will be built, and fewer old ones will be closed.”<sup>29</sup> There was a price to be paid for protectionism.

By late 1982, the *WP* worried that the once celebrated and beneficial ideal of “free trade is now in danger of being eroded here.”<sup>30</sup> International countries were not only responsible for this phenomenon, however. The *WP* suggested that idea of free trade did not have massive populist support, while protectionism did. “Free trade is an abstract position, without

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<sup>25</sup> Conine, “Protectionism,” C9.

<sup>26</sup> “Emotions on Trade Hide Real Issues,” *Washington Post*, 30 May 1982, F1.

<sup>27</sup> “Steel and Subsidies,” *Washington Post*, 13 June 1982, C6.

<sup>28</sup> US safeguard law legislates that restrictions are justified if the ITC determines serious injury to domestic industry, pursuant to Section 202 of the 1974 *Trade Act*.

<sup>29</sup> “Expanding the Steel Cartel,” *Washington Post*, 20 November 1982, C6; Arthur B. Laffer, “Limits on Trade Won’t Spell Relief,” *Los Angeles Times*, 11 January 1983, E3.

<sup>30</sup> “Who’s For Free Trade?” *Washington Post*, 23 November 1982, A20.

enthusiastic mass backing,” it explained, “while proposals for protectionism are all too concrete and have powerful political constituencies.”<sup>31</sup> The forces of protectionism were fundamentally “piecemeal” and benefited from the strong support of business and union leaders who pressed government and Congress. The Reagan administration, “under political pressure, does what administrations under pressure usually do and has supported protectionist measures.”<sup>32</sup> The *WP* expected that, with 1983 as the fourth consecutive year of zero domestic economic growth, “the pressures will be strong for protectionism.”<sup>33</sup> They anticipated correctly.

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The 1983 Economic Report of the President to Congress emphasized high US interest rates and trade deficits. Spiking interest rates caused the American dollar to rise, Reagan explained, which made US exports less competitive and imports more attractive. Despite favouring free trade on a philosophical level, Reagan was concerned about the prospects for US exports. The culprit became foreign trading partners. “American workers, business, and farmers suffer when foreign governments prevent American products from entering their markets,” the president noted.<sup>34</sup> Nonetheless, Reagan emphasized the apparent evils of protectionism to Congress: “While the United States may be forced to respond to the trade distorting practices of foreign governments through the use of strategic measures, such practices do not warrant indiscriminate protectionist actions.”<sup>35</sup> Reagan anticipated Congressional protectionism and was already on the defensive.<sup>36</sup>

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<sup>31</sup> “Who’s For Free Trade?” A20.

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup> Ronald Reagan, “Message to the Congress Transmitting the Annual Economic Report of the President,” 2 February 1983, *Public Papers of Ronald Reagan* [Accessed April 2009], Available online at: <http://www.reagan.utexas.edu/archives/speeches/1983/20283a.htm>

<sup>35</sup> Reagan, “Message to the Congress.”

<sup>36</sup> See Robert E. Baldwin, *The Political Economy of U.S. Import Policy* (Cambridge: MIT Press, 1985). This book provides a thorough and contextual outline of Congressional trade politics and the role of the president within them.

From 1982 to 1985, the number of ITC trade investigations doubled to 219 cases on average per year, not including countervailing duty cases considered by the Department of Commerce.<sup>37</sup> The trade offensive was a growing concern to not only Washington, but the general public. A May 1983 *LA Times* Poll suggested that 60 percent of Americans supported new tariffs against Japan, “even though they acknowledge that they enjoy the benefits of Japanese products.”<sup>38</sup> The nationwide poll also indicated that 68 percent supported trade restrictions to protect American corporations and jobs, “while only 26% favor free trade as a way to hold down prices and permit consumers the widest buying choices.”<sup>39</sup> The *LAT* concluded that public protectionist sentiments were so strong that it was willing to bear any negative effects that protectionist measures might have on them. Additionally, the poll calculated that 76 percent of households with a labour union member favoured trade restrictions. It also indicated more American resentment toward Japan, the US’s largest trading partner after Canada, and blamed Japanese competition for America’s economic woes.<sup>40</sup> US trade deficits with Canada were smaller during the same period. In 1981, the overall deficit with Canada was \$6.3 billion. This figure doubled by 1983, however, to \$13.9 billion.

Protectionist sympathies in Congress heated up by March 1983, according to the *Wall Street Journal* (*WSJ*). The notion of free trade was under sustained attack from the general populace pressuring Congressional representatives. Republican Bill Frenzel of Minnesota

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The Congress and president regulate, through different means, foreign trade through legislation and the pursuit of new trade agreements.

<sup>37</sup> Carvounis, *The United States Trade Deficit of the 1980s*, 18-19. This statistic suggests that not only were protectionist sanctions sought after frequently in those years, but even more often as annual investigations on average more than doubled. Determining the cause of this is difficult. Nevertheless, the deepening tail end of the 1982 recession and growing trade deficits appear to be logical causes. Quantifying “protectionism” as a whole is a complicated task, however, these statistics probably represent the best numerical method of gauging its impact.

<sup>38</sup> Tom Redburn, “60% in U.S. Back Tariff Against Japanese Goods,” *Los Angeles Times*, 22 May 1983, 1.

<sup>39</sup> Redburn, “60% in U.S. Back Tariff,” 1, 28.

<sup>40</sup> *Ibid*, 28. In 1981 the US had a \$15.8 billion trade deficit with Japan. By 1983, the US had a \$19.3 billion deficit as it imported \$41.2 billion and only exported \$21.9 billion to Japan.

stressed that “protectionist pressures are waxing hot... We’ll see if the administration, which seems strongly committed to free trade, can hold off on Congress, which seems deeply committed to protectionism.”<sup>41</sup> Expressed concerns about trade policy were no longer limited to law firms and the ITC and Congressional trade committees. According to Barbara Kennelly (D-Conn), “The individual citizen is asking us to do something...because the country’s trade policy isn’t working. It needs to be revamped.”<sup>42</sup> “Buy America” bills were put forward in Congress almost daily. A free trader exclaimed that it was “a significant problem; we simply can’t keep up with them all.”<sup>43</sup> Senator John Danforth of Missouri, a committed free trader, even proposed new “reciprocity” legislation. This called for US retaliation against countries that restricted US goods and services. Danforth faced pressure from his home state, “where the protectionist United Auto Workers union holds considerable sway.”<sup>44</sup> There were also increased efforts to convince Congress to revamp the *Trade Adjustment Assistance Program*, designed to “compensate workers hurt by foreign competition and thereby to reduce labor pressure for protectionist measures.”<sup>45</sup>

Free traders and protectionists in Congress desired a tougher trade policy on the international front. “Congress wants some unilateral U.S. actions that will jolt other countries into opening their markets and ending subsidies to exports,” one journalist noted.<sup>46</sup> The upcoming 1984 presidential race also kept Reagan administration strategists attuned to protectionist feelings so that they would not appear “too weak in battling what they consider to

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<sup>41</sup> Quoted by Robert W. Merry, “Congressional Anger on Free Trade Could Lead to Some Major Changes,” *Wall Street Journal*, 17 March 1983, 29.

<sup>42</sup> Merry, “Congressional Anger,” 29, quoted.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid. The *Chicago Tribune* also believed protectionism was increasing in the US. See “Winds of Protectionism,” *Chicago Tribune*, 24 April 1983, J2; James Bovard, “The Paranoia of Protectionism,” *Chicago Tribune*, 16 December 1983, D23.

<sup>45</sup> “Buying Off Protectionism,” *Washington Post*, 14 September 1983, A20. The Reagan administration objected to the program, however, and instead requested \$200 million for job search and training support.

<sup>46</sup> Merry, “Congressional Anger,” 29.

be unfair trade practices.”<sup>47</sup> One of the administration’s first efforts to appear tough on trade was to introduce US export subsidies on American flour and to develop a \$2.67 billion counter-subsidy fund to support US exports. Administration officials urged, however, that both the flour subsidies and export fund were “simply a tactical ploy to bolster U.S. arguments in talks” about unfair trade.<sup>48</sup> Reagan’s election opponent Walter Mondale also promised the American Federation of Labour that he would increase US trade protection if elected in 1984.<sup>49</sup>

Aside from intense criticisms of Japanese subsidies and import restrictions, the US also turned up the protectionist heat on Canada.<sup>50</sup> The 1982 *Gas-Tax Act* invoked additional “Buy America” laws which required that cement used in federally funded projects be 100 percent American-made, unless this would raise project costs by more than 25 percent.<sup>51</sup> The *WSJ* reported that US cement producers “aren’t sorry the Canadians will suffer— illustrating the sometimes-tender trade relationship between the U.S. and Canada, each of which is the other’s biggest customer.”<sup>52</sup> Corporate petitioning for a CVD on Canadian lumber also intensified in 1983. The weak Canadian dollar made imports of Canadian wood increasingly attractive.<sup>53</sup> Increasing protectionism in lumber was not a cross-industry sentiment, however, as many US companies owned lands in Canada that made the idea of a CVD unattractive.<sup>54</sup> The US ITC ruled that Canadian lumber exports were not significantly subsidized, thus rejecting claims by the

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<sup>47</sup> Art Pine, “U.S. Mulling Tougher Trade Policy,” *Wall Street Journal*, 17 February 1983, 35.

<sup>48</sup> Pine, “U.S. Mulling Tougher,” 35.

<sup>49</sup> Robert S. Greenberger, “Mondale Promises AFL-CIO to Work For Its Programs,” *Wall Street Journal*, 7 October 1983, 15.

<sup>50</sup> For US-Japan trade irritants, see Martin Baron, “Trade Barriers: U.S. Is No Saint- Many Nations Turn to Protectionism,” *Los Angeles Times*, 31 January 1983, 1, 12; Sam Jameson, “President Presses Japanese on Trade,” *Los Angeles Times*, 19 January 1983, B1, B8; Stuart Auerbach, “U.S.-Japan Trade Not Expected to Improve This Year,” *Washington Post*, 22 January 1983, D10; “Avoiding a Trade War,” *Los Angeles Times*, 17 January 1983, C6.

<sup>51</sup> Kevin Quinn, “‘Buy U.S.’ Shift In Gas-Tax Act Upsets Canada,” *Wall Street Journal*, 10 March 1983, 33.

<sup>52</sup> Quinn, “‘Buy U.S.’ Shift,” 33.

<sup>53</sup> Alan Bayless and Marilyn Chase, “Revising Lumber Industry Wonders Which Way U.S. Will Go on Bid for Duty on Canadian Wood,” *Wall Street Journal*, 23 February 1983, 56.

<sup>54</sup> Bayless and Chase, “Revising Lumber,” 56.

United States Coalition for Fair Canadian Lumber Imports.<sup>55</sup> This was not the last of the lumber issue. By the end of 1983, the *WSJ* reported that a “fair wind” was blowing from Canada – a wind in favour of freer trade between the two nations.<sup>56</sup>

In 1984, the US trade balance continued to suffer. Its trade deficit with Canada spiked from \$14 billion in 1983 to \$21 billion in 1984, and with Japan from \$22 billion in 1983 to \$37 billion in 1984.<sup>57</sup> With Germany, it more than doubled in a year, moving from \$4 billion to \$9 billion.<sup>58</sup> The US’s trade balance with Latin America’s eight largest debtor countries also went from a \$5.8 billion surplus to a \$14.5 billion deficit.<sup>59</sup> There were, however, some positive macroeconomic developments. Unemployment, for example, dropped 2.5 percent in 1983, the biggest one year reduction in unemployment in thirty years.<sup>60</sup> Nonetheless, the clamour for protection did not subside, especially in terms of subsidy spending. US government subsidy expenses doubled from 1980 to 1983.<sup>61</sup> Although Reagan “rhetorically deifies the free market,” the *WSJ* observed, “his administration routinely intervenes in favor of selected firms and industries.”<sup>62</sup> A total of 125 AD and CVD petitions were filed (73 AD and 52 CVD) in 1984, and the ITC and International Trade Administration (administrative legal authority of the US Commerce Department, therein ITA) affirmatively supported 56 cases of ADs and CVDs, including 10 ADs in effect against Canada.<sup>63</sup>

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<sup>55</sup> “Canadians Win,” D1. The final ruling on 24 May 1983 upheld this decision. “U.S. Rejects Lumber Charge,” *New York Times*, 25 May 1983, D22.

<sup>56</sup> “A Fair Wind From Canada,” *Wall Street Journal*, 7 December 1983, 28.

<sup>57</sup> “Facts Sheet on Trade,” 56.

<sup>58</sup> *Ibid*; Carvounis, *The United States Trade Deficit of the 1980s*, 18-19.

<sup>59</sup> Eduardo Lachica, “Quick Remedies For Deficit Aren’t Seen By Trade Official in Report to Congress,” *Wall Street Journal*, 1 February 1984, 43.

<sup>60</sup> “Trade Is Aid,” *Wall Street Journal*, 31 January 1984, 34.

<sup>61</sup> James Bovard, “Soaring Succor for Select Businesses,” *Wall Street Journal*, 1 February 1984.

<sup>62</sup> Bovard, “Soaring Succor,” 24.

<sup>63</sup> All stats from the US International Trade Commission, *Operation of the Trade Agreements Program*, 36<sup>th</sup> Annual Report, USITC Publication 1725 (July 1985): 197-99, 236-245; Lande and VanGrasstek, “*The Trade and Tariff Act*,” 116-117.

Support for protection of the weakened US steel industry flared up again in 1984. The subcommittee on trade held hearings on industry problems for half the year. The steel industry filed the most petitions for import restrictions out of all industries.<sup>64</sup> Pressure for import restrictions from Bethlehem Steel Corp and the United Steel Workers of America eventually resulted in an affirmative decision by the ITC on 12 June. The ITC decided that the US steel industry was indeed weakened by foreign imports on 70 percent of its product line.<sup>65</sup> Instead of imposing formal steel quotas, however, Reagan instituted “voluntary” restraints on imports on 19 September, whereby negotiators from major foreign steel exporters would have to decide with the US how much to restrain exports.<sup>66</sup> The *NYT* called this “potentially the most protectionist action this Administration has yet taken”<sup>67</sup> and reported that Reagan justified the action based on the premise that the US’s competitors benefited from unfair subsidies. He even brought in a twelve page list of “unfair” subsidies to support his decision.

Pressures for protection were intensified by the 1984 Presidential election.<sup>68</sup> The so-called Omnibus Trade Bill was first introduced in 1984, and included intense protectionist measures. One provision referred to as “natural resource pricing” would allow the US to impose a CVD on any country “whose exported products had used the nation’s natural resources at a cost below the price at which the country exported the resource.”<sup>69</sup> This was an obvious threat to Canada given its resource-based export economy. Another provision sought “upstream

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<sup>64</sup> Dan Rostenkowski (Chairman), “Problems of the U.S. Steel Industry,” *Hearings Before the Subcommittee on Trade of the Committee on Ways and Means, 98<sup>th</sup> Congress, April-August 1984* (Washington: U.S. Government Printing Office, 1985); Eduardo Lachica, “Steel Leads Petitions for Import Curbs,” *Wall Street Journal*, 9 May 1984, 32.

<sup>65</sup> Clyde H. Farnsworth, “Panel Asks Protection for Steel,” *New York Times*, 13 June 1984, D1; Storer Rowley and Bill Neikirk, “Reagan Aides Oppose Steel Quotas,” *Chicago Tribune*, 7 September 1984, B1.

<sup>66</sup> Clyde H. Farnsworth, “Effects Similar to Quotas,” *New York Times*, 20 September 1984, D1.

<sup>67</sup> Farnsworth, “Effects,” D1.

<sup>68</sup> Stuart Auerbach, “Protectionist Pressure Rises as Election Nears,” *Washington Post*, 16 September 1984, H21; Hobart Rowen, “Trade, Protectionism Now Election Issues,” *Washington Post*, 18 March 1984, F4.

<sup>69</sup> “The U.S. vs. Everyone,” *Wall Street Journal*, 4 October 1984, 32.



subsidies” and “downstream dumping,”<sup>70</sup> whereby any country that used an imported product to produce another product and then exported it out (as was often done with items imported into Canada) would potentially be subjected to a CVD. The new legislation also introduced the *Wine Equity Act* that would let US wine companies file complaints against agricultural producers themselves. The *WSJ* argued that the bill suggested that “protectionism’s proponents are turning to desperate, shotgun solutions for their competitive problems.”<sup>71</sup> On 30 October 1984, Reagan signed the Bill into law – albeit with fewer protectionist provisions than the original draft. USTR Brock, Dan Rostenkowski (Chairman of House of Means), and Bill Frenzel successfully blocked the most extreme protectionist measures, including radical definitions of dumping, downstream dumping, and natural resource subsidization. Restrictions on steel were increased, however, to Canada’s dismay.<sup>72</sup>

One liberalizing measure from the *Trade and Tariff Act* endowed the president with a wider and faster authority to pursue bilateral trade negotiations with countries. Reagan eventually used that authority to begin fast-track negotiations with Canada.<sup>73</sup> The thirst for free trade still existed in Washington. Not all Americans believed protectionism was the answer.

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The Reagan administration’s positions on trade policy had clearly shifted during its first four years in power. Early in its tenure, policy officials vehemently opposed import restrictions so intensely “that they won a reputation as purist free-trade ideologues.”<sup>74</sup> Reagan himself vowed to expand and liberalize world trade, fight protectionism, and promote the comprehensive

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<sup>70</sup> “The U.S. vs. Everyone,” 32.

<sup>71</sup> *Ibid.*

<sup>72</sup> “On Trade, A Happy Ending,” *Washington Post*, 12 October 1984, A22; Lande and VanGrasstek, “*The Trade and Tariff Act*,” 111.

<sup>73</sup> “On Trade,” A22.

<sup>74</sup> Art Pine, “Can Reagan Resist Protectionist Forces?” *Wall Street Journal*, 30 July 1984, 1.

benefits of free markets. Principles of *fairness* in trade were not initially a part of his rhetorical flare.<sup>75</sup> As protectionist bills and feelings increased in Congress, however, the pressure to adopt restrictions grew, causing the Reagan administration to reconsider its positions. Political expediency prevailed, and his rhetoric shifted. Reagan's new position was conceptualized as free *and* fair trade, not simply free trade.<sup>76</sup> In his memoirs, Reagan explained:

For the free market to work, *everyone has to compete on an equal footing*. That way, prices and demand go up or down based on the free choices of people; there are winners and losers...when governments fix or control the price, impose quotas, subsidize manufacturers or farmers, or otherwise intervene in the free market with artificial restrictions, it isn't free and it won't work as it is supposed to work.<sup>77</sup>

Moreover, he conceded that his government (and all governments) instituted various protectionist policies "usually because of domestic political pressure from groups that have a vested interest in limiting competition."<sup>78</sup> Reagan did not *like* protectionism per se. He felt it resulted in trade wars, more restrictions, and thus less growth. An increasingly protectionist Congress and greater scrutiny of the practices of competitive trade partners caused Reagan to reconsider protective measures in select cases, like his 1984 decision to institute voluntary steel import restraints.<sup>79</sup>

By January 1985, the US dollar had skyrocketed a tremendous 41 percent since 1980, which, according to most economic analysts, contributed to the \$131.8 billion trade deficit in 1985.<sup>80</sup> Washington's deficit with Tokyo soared from \$37 billion in 1984 to \$50 billion in 1985.

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<sup>75</sup> Ronald Reagan, "Proclamation 4924-- World Trade Week," 5 April 1982, *Public Papers of Ronald Reagan* [Accessed April 2009], Available online at: <http://www.reagan.utexas.edu/archives/speeches/1982/40582g.htm>

<sup>76</sup> Ronald Reagan, "Proclamation 5160-- World Trade Week," 15 March 1984, *Public Papers of Ronald Reagan* [Accessed April 2009], Available online at: <http://www.reagan.utexas.edu/archives/speeches/1984/31584c.htm>

<sup>77</sup> Ronald Reagan, *An American Life* (New York: Simon and Schuster, 1990): 355.

<sup>78</sup> Reagan, *An American Life*, 355-356.

<sup>79</sup> *Ibid*, 356-357.

<sup>80</sup> Stuart Auerbach, "Strong Dollar Blamed for Trade Deficit," *Washington Post*, 20 January 1985, H1; Art Pine, "Rapidly Rising Dollar, Big Trade Deficit Stir More Pleas For Help," *Wall Street Journal*, 12 February 1985, 1; "U.S. Trade Deficit Soars," *Chicago Tribune*, 1 January 1986, B1.

The deficit with Canada increased only marginally, growing 1 billion in 1985 to \$22 billion.<sup>81</sup> For the first time in 71 years, the United States also became a net debtor nation.<sup>82</sup> According to a *Los Angeles Times* poll, 75 percent of respondents described this as a “serious problem” and blamed foreign countries instead of domestic policies.<sup>83</sup> Poll director I.A. Lewis claimed that it demonstrated “that the American public is in favor of the hullabaloo in Congress, and they’re in favor of trade restrictions.”<sup>84</sup>

In response, Richard Gephardt (D-Mo) asserted that “now, there is a more unified view of the fact that we’re losing the trade competition, and people want something done about it.”<sup>85</sup> Consequently, throughout 1985 there were 300 bills pending in Congress that sought protection for various industries, a tangible indication of the sour Washington trade mood.<sup>86</sup> This was considerably higher than the 180 protectionist bills put forth in Congress in 1984.<sup>87</sup> Even the free trade sympathizer and chairman of the Ways and Means Trade Sub-Committee, Sam Gibbons (D-Fla), introduced a bill in 1985 to place duties on natural resource products like natural gas and timber, deemed to benefit from state subsidies in Canada and Mexico.<sup>88</sup> Another surcharge bill introduced by Democrats Rostenkowski, Gephardt, and Sen. Lloyd Bentsen sought to impose a 25 percent surcharge on countries with hefty trade surpluses with the US or which restricted US goods.<sup>89</sup> Just as Canada initiated the proposal for free trade in September 1985, Reagan

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<sup>81</sup> “Facts Sheet on Trade,” 56.

<sup>82</sup> “Trade Deficit \$30 billion- 3<sup>rd</sup> Quarter is Near Record,” *Chicago Tribune*, 18 December 1985, B3.

<sup>83</sup> Maura Dolan, “The Times Poll—Nation Strongly Backs Restriction of Imports,” *Los Angeles Times*, 29 September 1985, SD1.

<sup>84</sup> Dolan, “The Times Poll,” SD1.

<sup>85</sup> *Ibid.*

<sup>86</sup> Stuart Auerbach, “Trade Bills Take Variety of Tacks,” *Washington Post*, 29 September 1985, K2; Peter Kilborn, “Key U.S. Role Seen in Furthering Trade,” *New York Times*, 2 September 1985, 30.

<sup>87</sup> Steven J. Dryden, “Protectionist Pressures Predicted,” *Washington Post*, 2 February 1984, D1.

<sup>88</sup> Auerbach, “Trade Bills,” K2.

<sup>89</sup> *Ibid.*

believed that protectionism was “stronger in Congress than at any time since the Great Depression of the 1930s.”<sup>90</sup>

The Reagan administration again attempted to quell the protectionist sentiments. USTR William Brock (who later resigned from the position and was replaced by Clayton Yeutter) emphasized the *growing* pressure on Congress to fix the nation’s trade problems. Brock asserted that the US’s trade obstacles were partly caused by the speed and strength of US economic growth out of the recession. As the economy slowed by the fourth quarter of 1984, however, tough corporate competition became more apparent. In Brock’s view, there was “an increasing level of frustration all across the country.... People don’t think we’re getting a fair shake abroad.”<sup>91</sup> Clyde Farnsworth at the *NYT* characterized the 300 pending protectionist bills and overriding Congressional sentiment as *bipartisan* and “the postwar era’s greatest deluge of protectionist legislation.”<sup>92</sup> Senator John Heinz (R-Pen) claimed that foreigners were “stealing run after run and even carrying off home plate,” which reflected the anti-foreign subsidies view which permeated the 99<sup>th</sup> Congress.<sup>93</sup> One bill that sought to limit 36 percent of all textile imports had the support of 285 members of the house and about two-thirds of the trade subcommittee. Another suggested an across-the-board 15 to 20 percent tariff surcharge on everything the US bought from another country. An additional bill proposed to provide any injured industry with instant protection without the president’s agreement.<sup>94</sup>

These types of bills fluttered throughout Congress in 1985 and prompted many warnings from the Reagan administration that it would veto any protectionist extremism. Although the bills did not generally discriminate amongst nations (European countries were targeted, as was

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<sup>90</sup> Lou Cannon, “Reagan Emphasizes Free-Trade Stance,” *Washington Post*, 1 September 1985, A4.

<sup>91</sup> Pine, “Rapidly Rising,” 1.

<sup>92</sup> Clyde H. Farnsworth, “Tide of Protectionism in Congress,” *New York Times*, 4 July 1985, D1.

<sup>93</sup> Farnsworth, “Tide of Protectionism,” D2.

<sup>94</sup> *Ibid.*

Canada, the Pacific Rim, and Saudi Arabia), the Senate voted 92 to 0 in favour of retaliatory measures against the Japanese in March, protesting their “Buy Japan” policies which restricted US imports while flooding the auto, electronics and telecommunications sectors in the US.<sup>95</sup> Blatant protectionism appeared rampant against Japan. Whether this was aggravated by racial prejudice is highly questionable. It is possible that race exacerbated the underlying trade irritants and thus reinforced anti-foreignism. However, the large deficits and vehement competition from Japanese corporations came from high government subsidies. Japan also refused many US exports which further upset Americans.

Congress also became frustrated with the Reagan administration. Many representatives believed it clung to its free trade ideals too firmly. The *WSJ* reported that “much of Congress’s current anger seems aimed more at the Reagan administration for not stemming the dollar’s rise or aggressively combating trade barriers.”<sup>96</sup> Other business leaders thought the administration was overly ideological, which actually *caused* protectionist pressures in Congress.<sup>97</sup> Clayton Yeutter’s goal as the new USTR was to stem protectionism while maintaining the administration’s basic view on liberalized trade practices. Instead of blaming foreign partners’ trade tendencies, Yeutter blamed the US dollar for the country’s trade deficits, and encouraged bilateral trade negotiations with Canada and South Korea in 1986. The Reagan administration eventually decided that, to limit the trade deficit and protectionism in Congress, it would artificially intervene in world currency markets to deflate the US dollar.<sup>98</sup> The president also sought to toughen his trade policy by setting up a \$300 million “war chest” to counter-subsidize

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<sup>95</sup> Stuart Auerbach, “Senate Urges Reagan to Act Against Japan,” *Washington Post*, 29 March 1985, A1.

<sup>96</sup> Art Pine, “Balancing Act: Protectionism Appeals to House and Senate but Faces Big Hurdles,” *Wall Street Journal*, 31 July 1985, 1.

<sup>97</sup> Art Pine, “New Trade Representative Aims to Build a More Aggressive Strategy for the U.S.,” *Wall Street Journal*, 9 July 1985, 33.

<sup>98</sup> Art Pine, “Battle of the Buck: To Avert a Trade War, U.S. Sets Major Push to Drive Down Dollar,” *Wall Street Journal*, 23 September 1985, 1.

American exporters who faced international competitors benefiting from unfair subsidies. Additionally, a government “strike force” was assembled to initiate negotiations with other countries on their unfair trade practices, and to provide a strong US presence in the GATT to expand the international agreement to the agricultural and hi-tech industries.<sup>99</sup> With Yeutter’s arrival, the USTR office resumed its critique of protectionism in its international and Congressional forms.<sup>100</sup> The administration also attempted to eradicate protectionism the ‘old fashion’ way: vetoing protectionist bills passed through both houses.<sup>101</sup>

Canada was implicated in the new upsurge of 1985 protectionism. The ITC’s 1983 decision that there were no significant subsidies for Canadian lumber exporters did not convince Congress. Six different bills sought to rectify the perceived injustice. Sam Gibbons’ bill called “for a change in the laws governing countervailing duties to punish governments that allow the extraction of natural resources at ‘less than fair market value.’”<sup>102</sup> Provincial-owned lumber costs were much cheaper than the 70 percent privately owned stumpage prices in the US, and since Canada exported about one-third of its softwood lumber to the US (representing a huge percent of the total US market), the bill sought to put a hefty duty on Canadian lumber.<sup>103</sup>

Actions against Canadian hogs were also taken in various central-states, such as South Dakota, Nebraska and Iowa. South Dakota governor Bill Janklow had police refuse the entrance

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<sup>99</sup> Stuart Auerbach, “President Toughens U.S. Trade Policy,” *Washington Post*, 24 September 1985, A1.

<sup>100</sup> Earl Cheit, “Administration Takes Initiative on Trade Policy,” *Los Angeles Times*, 3 November 1985, C3.

<sup>101</sup> Reagan rejected an import curb for the shoe industry and argued it would be detrimental to the overall US economy. Bernard Weinraub, “Reagan Rejects Shoe Import Curb,” *New York Times*, 29 August 1985, D1. In Virginia, this triggered more pressure on Sen. John Warner whose Capital Hill office had been littered with shoe soles in protest by workers of the Craddock-Terry Shoe Company. Sandra Sugawara, “Shoe Soles Lead Protectionist March,” *Washington Post*, 24 September 1985, C1; Bernard Weinraub, “Reagan Threatens to Veto Any Move to Limit Imports,” *New York Times*, 1 September 1985, 1. However, the administration did raise its tariffs on pasta from the EEC to 25% of the value of the goods from 0.25%, a retaliatory measure against Europe’s restriction of US imports of citrus fruit. Robert Rosenblatt, “U.S. Sharply Raises Tariff on European Pasta,” *Los Angeles Times*, 1 November 1985, 4. More blatantly protectionist measures existed against the Japan and EEC than to Canada.

<sup>102</sup> Douglas Martin, “U.S.-Canadian Rift on Wood Exports,” *New York Times*, 12 August 1985, D1; “Stumped on Stumpage,” *Los Angeles Times*, 9 August 1985, B4.

<sup>103</sup> Martin, “U.S.-Canadian Rift,” D6.

of Canadian cattle trucks into meat plants. According to the *WSJ*, farmers had been “complaining that Canadian imports are depressing prices.”<sup>104</sup> Janklow denied that this was an action of state-level protectionism, insisting that they were “acting to protect someone or other against the antibiotic chloramphenicol, which they say the Canadians use to treat livestock.”<sup>105</sup> Other US hog producers believed that Canadian government price-stabilization policies amounted to unfair subsidies. This manifestation of state-sanctioned protectionism represented another case of worry for Canadian exporters. Uncertain access to the US market worried hog exporters.

US sources confirm that 1985 was a crucial year, with surging protectionism prompting subsequent Canadian efforts to pursue bilateral trade talks. The 17 and 18 March 1985 Shamrock Summit, followed by the Macdonald Report recommendation and Mulroney’s formal decision to pursue a bilateral agreement, were based largely on the perceived strength in protectionist sentiments and legislative rancour.<sup>106</sup> Nonetheless, a warm relationship developed between Mulroney and Reagan at the Shamrock Summit, which prompted cooperation and friendship, two crucial aspects to any positive, diplomatic relationship.<sup>107</sup> Front page *NYT* coverage on the Canadian proposal emphasized that Canada sought free trade because “protectionist sentiment in the United States had been sharply rising, reflected most recently in several speeches by President Reagan to blunt even tougher talk in Congress.”<sup>108</sup> The path towards the CUSFTA seemed clear, even as protectionism flourished in Congress.

The US trade deficit hit its 1980s peak of \$173.6 billion in 1986.<sup>109</sup> The American government’s effort to lower the value of its dollar was successful, and by September 1986 it had

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<sup>104</sup> “Porker Protectionism,” *Wall Street Journal*, 28 May 1985, 30.

<sup>105</sup> “Porker,” 30.

<sup>106</sup> “Canadian Panel Urges Freer Trade With U.S.,” *New York Times*, 7 September 1985, 31.

<sup>107</sup> Ronald Reagan, *The Reagan Diaries*, Edited by Douglas Brinkley (New York: HarperCollins, 2007): 309.

<sup>108</sup> Douglas Martin, “Canada Seeking Pact With U.S. On Freer Trade,” *New York Times*, 27 September 1985, A1.

<sup>109</sup> Robert Hershey, “U.S. Trade Deficit Hits \$19.2 Billion, a Monthly Record,” *New York Times*, 1 January 1987, 1.

decreased 55 percent against the Yen and 40 percent against the West German Mark since the government initiated the program.<sup>110</sup> Nevertheless, the US trade deficit did not decline, prompting Secretary of the Treasury James Baker to urge both West Germany and Japan to divert some of their exports away from the United States.<sup>111</sup> The US's trade deficit had quadrupled from 1980 to 1986, and protectionist tensions had grown apace.<sup>112</sup>

After Reagan asked for legal permission on 10 December 1985 to negotiate an agreement with Canada under the fast-track negotiating process pursuant to Section 401 of the 1984 *Trade and Tariff Act*, the Subcommittee on Trade of the Ways and Means Committee accepted corporate testimony on thoughts of free trade negotiations.<sup>113</sup> Much of the testimony focused on disapproval of Canadian subsidies and duties on US products. For example, the American Paper Institute believed that Canadian duties on US products were higher than vice versa, and sought to eliminate duties in addition to Canadian federal and provincial subsidies to pulp and paper mills.<sup>114</sup> The US Coalition for Fair Lumber Imports issued the standard argument against the Canadian lumber industry, and concluded that any free trade agreement must support the “maintenance of existing countervailing duty law, but seek to strengthen the statute through adoption of the Gibbons Bill” (which would define any resource valued at less than fair market prices as a subsidy).<sup>115</sup> The institute asked for a resolution to the lumber dispute as soon as possible. Lucy Sloan, representing the National Federation of Fishermen, urged the committee

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<sup>110</sup> Clyde H. Farnsworth, “Yearlong Decline of the Dollar Fails to Cut U.S. Trade Deficit,” *New York Times*, 19 September 1986, A1.

<sup>111</sup> Art Pine, “Heading Into An Economic Box,” *Wall Street Journal*, 16 June 1986, 1.

<sup>112</sup> “Facts Sheet on Trade,” 56.

<sup>113</sup> Sam Gibbons (Chairman), “United States-Canada Free Trade Negotiations,” Of the *Subcommittee on Trade of the Committee on Ways and Means*, 8 April 1986 (Washington: U.S. Government Printing Office, 1986): iii. \*Of the *Subcommittee* herein refers to this particular Subcommittee document unless otherwise noted.

<sup>114</sup> Irene W. Meister, “Testimony- American Paper Institute Inc.,” *Of the Subcommittee*: 20.

<sup>115</sup> The standard argument against the industry was that Province-owned lumber yards allowed for cheap extraction of lumber at a less-than-fair market value as a result of being Province owned. This “subsidy” caused the undercutting of US prices, injuring the US domestic industry. See “Coalition for Fair Lumber Imports: Comments on Proposed U.S.-Canada Free Trade Negotiations,” *Of the Subcommittee*: 111-114.



that “we need tariffs and countervailing duties” to compete with Canadian subsidies of fisheries, and recommended against any fishery provisions in a bilateral trade agreement.<sup>116</sup> The Neckwear Association of America opposed any agreement which could undermine duties and increase imports.<sup>117</sup>

Bomont Industries, a producer of nylon fabrics and member of the textile sector, supported the notion of free trade but firmly opposed “any relaxation of the antidumping or countervailing duty laws.” Of particular concern was the reshipment of products from other countries through Canada and into the US that benefited from any price or trade distorting subsidies.<sup>118</sup> Essentially, most companies that supported an agreement did not view their sector as vulnerable to trade distorting practices or dumping, and those that did, opposed an agreement.

Citizens For a Sound Economy, a Washington think-tank, supported negotiations to help fight against “the spectre of protectionism hanging over the world economy.”<sup>119</sup> They cited the agreement’s probable aggregate benefits for the American consumer, employment, investment access and increased efficiency of domestic production as blatant reasons to support trade talks. They also correctly anticipated that the largest obstacles to the agreement in the US would come from the lumber industry, but rejected the industry’s claims for protection because even if Canada was subsidizing its lumber industry, American consumers and homebuilders were largely the beneficiaries. “To allow trade negotiations to stall because U.S. consumers are being theoretically subsidized by Canadian taxpayers would be cutting off our nose to spite our face.”<sup>120</sup> Raymond Farley, Chairman of the Canada-US Relations Committee of the Chamber of

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<sup>116</sup> Lucy Sloan, “Fishery Imports and Their Importance,” Of the *Subcommittee*: 202-203, 205.

<sup>117</sup> Gerald Andersen, “Neckwear Association of America- In Opposition to Proposed U.S.-Canada FTA,” Of the *Subcommittee*: 213.

<sup>118</sup> Bomont Industries, “Written Comments on Proposed U.S.-Canada FTA,” Of the *Subcommittee*: 80.

<sup>119</sup> Citizens For a Sound Economy (CSE), “Comments on Proposed U.S.-Canada Free Trade Agreement,” Of the *Subcommittee*, 103.

<sup>120</sup> CSE, “Comments,” 106.

Commerce, indicated the binational group's support of trade negotiations. They supported the effort as long as each country's trade laws still applied with the presence of an agreement. The committee further emphasized the need for a dispute settlement mechanism and the need for the agreement to be comprehensive in nature that covered all "trade barriers, tariff and non-tariff barriers. No practices should be excluded."<sup>121</sup>

The California Farm Bureau Federation held a more moderate view and insisted that any agreement should permit "absolutely no allowance for Canadian provinces to regulate trade under their own authorities. Compared with individual states in the U.S., Canadian provinces have a stronger role in trade matters."<sup>122</sup> The organization "urged caution" in negotiations, and even expressed concerns over low Canadian stumpage prices, suggesting that "until the subsidy issue is resolved, U.S. timber interests are not likely to endorse any relaxation of U.S. trade restrictions with Canada."<sup>123</sup> They favoured reduced trade barriers but insisted that free trade remain fair and would not support an agreement that allowed Canadian subsidy practices to remain intact.<sup>124</sup> The Bureau expressed further concerns over Canadian pork producers who they felt were unfairly subsidized, causing damage to the industry. The Canadian Pork Council countered that a 1985 countervailing duty imposed on Canadian pork violated the GATT Subsidies Code (which permitted purely domestic subsidies), as it was not proven that a domestic subsidy *directly caused* injury to the industry.<sup>125</sup>

Diversified manufacturing giant General Electric supported negotiations because Canada was their largest export market, accounting for 11 percent of its total exports. They supported the

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<sup>121</sup> Raymond F. Farley, "Testimony: Committee on Canada-United States Relations, United States Section," Of the *Subcommittee*, 98.

<sup>122</sup> Henry J. Voss, "Statement of the California Farm Bureau Federation on U.S.-Canadian Free Trade to the Subcommittee on Trade, House Committee on Ways and Means," Of the *Subcommittee*, 89.

<sup>123</sup> Voss, "Statement of the California Farm," 90.

<sup>124</sup> *Ibid*, 90.

<sup>125</sup> "Statement on Behalf of Canadian Pork Council Regarding U.S.-Canada Free Trade Negotiations," Of the *Subcommittee*, 91.

reduction of tariffs because even with the imposition of Tokyo Round tariff reductions, GE still paid 10-15 percent duties on major items exported.<sup>126</sup> General Electric also suggested that free trade should extend to the services sector.<sup>127</sup>

Diverse views on negotiations characterized the testimony. Interestingly, there was not a large emphasis on the liberalization of foreign investment restrictions in Canada. This was a major concession that the Americans eventually sought in negotiations that helped lead to an agreement. Vulnerable industries generally opposed negotiations (textiles, lumber, fisheries, pork/farming), and efficient corporations generally favoured negotiations. The emphasis on fair trade within free trade was a dominant theme. A general dislike of Canadian subsidies permeated the testimony.

On 23 April 1986 the US Senate Finance Committee voted 10 to 10 on Reagan's request for fast-track negotiating authority to begin Canada-US trade negotiations, which permitted the president to proceed. After "intense, daylong lobbying,"<sup>128</sup> it blocked a motion that could have stalled bilateral trade talks for years. The fact that there was considerable opposition to the President's proposal, however, indicated that half of the senators opposed Reagan's negotiating efforts. Much of the opposition came from protectionist lumber-state senators who "complained that Canada was subsidizing its exports by charging timber companies a very low fee for the right to cut down trees on Government land."<sup>129</sup> For example, during the day-long meeting, "lumber" Senator Steven Symms (Rep. Ida) only voted in favour of the motion after receiving a promise from the White House that negotiations to solve the lumber issue would be accelerated,

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<sup>126</sup> L.A. Bossidy, "General Electric on Proposed Negotiations," Of the *Subcommittee*, 152-153.

<sup>127</sup> Free trade in services was eventually incorporated into the CUSFTA. See Chapter 14 of the CUSFTA.

<sup>128</sup> Clyde Farnsworth, "President Backed on Canada Talks," *New York Times*, 24 April 1986, D1.

<sup>129</sup> Farnsworth, "President Backed," D18.

including a possible “unfair trade action against Canada.”<sup>130</sup> Yeutter echoed this promise of a prompt resolution to the lumber issue to gain support for fast-track negotiating authority.

The next day, Reagan wrote to Committee Chairman Packwood reassuring the senator that the US would “continue to retain full access to multilaterally sanctioned United States trade remedies,”<sup>131</sup> eliminate Canadian tariffs on exports, and deal with Canadian subsidies it found injurious to competition.<sup>132</sup> Reagan was aware that he would have to promote the ideals of fair trade to enhance and secure political support for Canada-US negotiations, and he promised the committee that, if the context permitted it, US law could still be used to protect a seriously injured industry from unfair trade practices.

As negotiations began, Reagan’s political promise to deal with the qualms of the lumber senators in the pursuit of “fairer” trade practices took precedence. The resulting 35 percent duty on Canadian red cedar shakes and shingles for the first 30 months, 20 percent for the next 24 months, and 8 percent for the last 6 months came with the ITC’s determination that Canadian cedar shakes “had seriously injured the domestic industry. Up to 99 percent of such imports come from Canada.”<sup>133</sup> Mulroney was furious, and Canada retaliated by placing new restrictions on US books, computers and semiconductors. This prompted Sen. John Kerry (D-Mass) to rethink Reagan’s move. “If you go too far in any one of these steps, you invite retaliation...,” Kerry cautioned. “If we’re not careful, we’re going to end up cutting off our own noses.”<sup>134</sup> In October, a second bombshell duty was imposed on the Canadian lumber industry – a preliminary 15 percent duty on nearly \$3 billion (US) of the annual lumber exports to the US. This also came

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<sup>130</sup> Ibid.

<sup>131</sup> Ronald Reagan, “Letter to the Honourable Bob Packwood, 24 April 1986,” In *The Free Trade Papers*, Edited by Duncan Cameron (Toronto: James Lorimer, 1986): 44-45.

<sup>132</sup> Reagan, “Letter,” 44.

<sup>133</sup> Christopher Wren, “Mulroney ‘Furious’ at Reagan Approval of Lumber Tariffs,” *New York Times*, 24 May 1986, 1, 41. Stats referenced as “American” statistics.

<sup>134</sup> David Shribman and Art Pine, “Canada’s Quick Retaliation for Shingles Tariff Prompts Some on the Hill to Rethink Protectionism,” *Wall Street Journal*, 19 June 1986, 64.

after the US lumber industry rejected a Canadian offer to put a 10 percent duty on exported lumber. This reversed the 1983 decision and, in the view of the *NYT*, represented “a major escalation of protectionism.”<sup>135</sup> Stanley Dennison, VP of the Georgia-Pacific Company and chairman of the Coalition for Fair Lumber Imports, even suggested to the US Commerce Department that a larger tariff of 32 percent on Canadian lumber was justified. The final ruling by the ITC on 31 December 1986 kept the 15 percent tax on Canadian lumber. Rep. Don Bonker (D-Wash), a long time critic of Canadian stumpage practices, still argued that the US would be at a disadvantage because “Canadian producers....will retain their advantage in third-country markets in which they compete with U.S. exporters.”<sup>136</sup> The softwood lumber and shakes and shingles issues had, for a long time, been contentious bilateral irritants. Furthermore, they revealed that protectionist measures did not come to a halt during free trade negotiations, as Mulroney and Reagan had pledged to one another on several occasions.

Congressional protectionism continued unabated throughout 1986. The House of Representatives passed the second Omnibus Trade Bill (H.R. 4800) on 22 May 1986 with a 295 to 115 vote. The bill gained “fast track” status as a Democratic initiative for the Congressional elections that fall.<sup>137</sup> The *WP* argued that the trade bill prompted the Reagan administration’s duties against Canadian lumber; that it made an effort to appear it was getting tough on trade in a frenzied attempt to limit support for the bill. In reference to the shakes and shingles decision, the *WP* asked, “Why did the United States announce this tariff in a fashion that looked like a gratuitous blow at Mr. Mulroney...? There’s no good answer. It was simply driven by panic.”<sup>138</sup> The Reagan administration was quick to denounce the bill as being “in the worst spirit of Smoot-

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<sup>135</sup> Peter Kilborn, “U.S. Puts 15% Tariff on Lumber,” *New York Times*, 17 October 1986, D1.

<sup>136</sup> “U.S., Canada Settle Dispute Over Lumber,” *Washington Post*, 1 January 1987, D2.

<sup>137</sup> Stuart Auerbach, “Trade Legislation Put on Fast Track in House,” *Washington Post*, 28 February 1986, C9.

<sup>138</sup> “Trade Panic at the White House,” *Washington Post*, 29 May 1986, A22.

Hawley, pure protectionism,”<sup>139</sup> and the president made clear that he vehemently opposed it. He called it “kamikaze legislation” that would cost the American public billions in higher prices for products and would precipitate retaliation that would cost the US millions of jobs.<sup>140</sup> In response, Rep. Don Bonker argued that “If our trade bill is being called kamikaze, then it is aimed at the right targets—unfair trade practices.”<sup>141</sup> The proposed Omnibus Bill contained provisions to impose mandatory quotas on many countries, including Japan, Taiwan and West Germany. The Reagan administration also succumbed to some protectionism on its most irritating trading partner, Japan, and imposed an export limit on its exports of machine tools into the US as essential for preserving a key US industry<sup>142</sup> but in political terms, as an attempt to “deflect pressure in Congress for broad protectionist legislation.”<sup>143</sup> The protectionist movement had such strength that it did not discriminate – many countries besides Canada were targeted.

By 1986, Congressional options had been limited to two essential approaches: support international efforts to secure and improve trading rules and increase fairness with competitors, or blunt protectionism by force of tariffs, quotas and other “Buy American” policies. The 99<sup>th</sup> Congress would have to again attempt to achieve this balance in 1987, while debating the pending CUSFTA.

The 1987 trade deficit declined by about \$21 billion, but trade concerns still dominated US Congressional politics.<sup>144</sup> The Omnibus Trade Bill of 1987 (also termed the International Trade Bill) assumed center stage on the Hill, and the Democratic-controlled House and Senate

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<sup>139</sup> Larry Speakes, “Statement by Principal Deputy Press Secretary Speakes on House of Representatives Approval of Omnibus Trade Bill,” 22 May 1986, *Public Papers of Ronald Reagan* [Accessed April 2009], Available online at: <http://www.reagan.utexas.edu/archives/speeches/1986/52286g.htm>

<sup>140</sup> “Reagan Vows to Veto House Trade Bill,” *Washington Post*, 30 May 1986, F1.

<sup>141</sup> “Reagan Vows,” F4.

<sup>142</sup> “Protection for Machine Tools,” *Washington Post*, 26 November 1986, A20.

<sup>143</sup> “Protection for Machine Tools,” A20.

<sup>144</sup> “Trade With World—1987,” *US Census Bureau, Foreign Trade Division* [Accessed April 2009], Available online at: <http://www.census.gov/foreign-trade/balance/c0015.html#1987>

had been expected to bring forth protectionist legislation after the record trade deficit the previous year.<sup>145</sup> Critics in Canada, however, continued to suggest that Mulroney's government was distorting the threat of protectionism.

The mood on the Hill, however, appeared to be tougher on protectionist ideas that year. An unnamed Congressional staff aid quoted in the *WP* explained that "Getting labeled a protectionist is kind of a kiss of death, and nobody wants that... I don't think straight protectionism can pass."<sup>146</sup> Sen. Max Baucus (D-Mont), a member of the finance committee, believed that "the general mood and tone and tenor this year is going to be less protectionist than the last, but still tough."<sup>147</sup> The former predictions were partly true. Treasury Secretary James Baker described the general White House mood to Congress: "Our strategy is different than it was last year. That's no secret. We want to work with you."<sup>148</sup> The deadlocks between the protectionist Congress and reluctant White House were recognized as inefficient.

Congressional attempts to pass strict protectionist legislation in 1987 were largely led by Richard Gephardt. His strongly US labour-supported amendment to the 1987 Omnibus Trade Bill required any country with a large trade surplus with the US (particularly Japan, Taiwan, South Korea and West Germany) to reduce barriers by 10 percent a year or face US duties, import quotas, or other restrictions.<sup>149</sup> The House passed the Omnibus Bill late April 1987 (without the Gephardt amendment) by a vote of 290-137. *With* the Gephardt amendment vote,

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<sup>145</sup> Stuart Auerbach, "New Congress Could Shy Away From Strongly Protectionist Bills," *Washington Post*, 11 January 1987, G10. Also see Dan Rostenkowski (Chairman), "Trade and International Economic Policy Reform Act and Other Proposals," *Hearings Before the Committee on Ways and Means and its Subcommittee on Trade, 100<sup>th</sup> Congress, February 5-20, 1987* (Washington: U.S. Government Printing Office, 1987).

<sup>146</sup> Auerbach, "New Congress," G10.

<sup>147</sup> *Ibid.*

<sup>148</sup> "Timetable for Trade Bills Criticized," *Washington Post*, 11 February 1987, G1.

<sup>149</sup> Alan Murray, "Baldrige Urges Veto of House Trade Bill Even Without the Gephardt Amendment," *Wall Street Journal*, 5 May 1987, 14.

the Omnibus Bill slipped through the House by four votes, 218-214.<sup>150</sup> Nevertheless, Gephardt believed that the Reagan administration would not adopt the bill's amendment, even if it passed through the Senate.<sup>151</sup> The House Ways and Means Committee Chairman Rostenkowski also proposed a less stringent outline for the president, which provided the administration with the flexibility to decide if retaliatory measures were justified should negotiations with high surplus countries lead nowhere.<sup>152</sup> Authority for this was taken from the president, however, and given to the USTR in the Rostenkowski provision.<sup>153</sup> Furthermore, the US would be able to retaliate against countries that, by its account, violated workers' rights.<sup>154</sup> Reactions to the Gephardt amendment were mixed. Rep Mike Synar (D-Ok) voted against it because he felt the administration had already developed a more aggressive trade policy to appease Congress. He also wanted a bill that would satisfy Reagan.<sup>155</sup> Even without the Gephardt amendment, the original Omnibus Trade Bill contained certain *mandatory* retaliation conditions against countries that had large trade surpluses, in addition to significant changes to countervail and safeguards trade laws, as discussed in Chapter 1.

Rostenkowski felt that he had to change his bill simply because he wanted it to pass and gain Reagan's acceptance. "I want to get enough votes to pass a bill," he explained. "If we begin this journey and there's no possibility that the president would approve, that's too much of a stumbling block."<sup>156</sup> Thus, the bill was amended to limit the president's power in determining the type of retaliation imposed against nations with surpluses, and outlined a general role for the

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<sup>150</sup> Murray, "Baldrige Urges Veto," 14.

<sup>151</sup> Monica Langley, "Gephardt Claims to Have Sufficient Votes For House to Pass Trade Retaliation Plan," *Wall Street Journal*, 16 April 1987, 10.

<sup>152</sup> Monica Langley, "House Speaker Signals He Backs Effort to Put Forced Retaliation in Trade Bill." *Wall Street Journal*, 27 March 1987, 3.

<sup>153</sup> "Trade Shocks, Protectionist Fevers," *New York Times*, 28 March 1987, 26.

<sup>154</sup> Monica Langley, "Rostenkowski Softens Terms of Trade Bill," *Wall Street Journal*, 11 March 1987, 3.

<sup>155</sup> Jonathan Fuerbringer, "Fear on Protectionism Softens Trade Bill Push," *New York Times*, 4 May 1987.

<sup>156</sup> Langley, "Rostenkowski Softens Terms," 3.



USTR to initiate more bilateral negotiations to remove trade barriers.<sup>157</sup> A changed provision on workers' rights also allowed the administration to give a country the opportunity to improve its workers' rights provisions prior to retaliation. Chairmen Gibbons and Rostenkowski believed that Congressional bills without the president's support, at this stage in the trade dilemma, were futile. Efforts were made to gain approval from Reagan who (alongside Secretary of Commerce Malcolm Baldrige) threatened to strike down the various House and Senate bills on several occasions. This occurred even though he believed the bills were an improvement over previous legislation.<sup>158</sup>

Amidst the protectionist Omnibus Trade Bill, bilateral negotiations towards a CUSFTA continued. From Washington's perspective, Ottawa's basic goal of attaining greater immunity from US trade remedy law would be tough to concede, given Congress' determination to fight against unfair trade practices. Rumblings from the trade committee in August 1987 indicated that Congress was "unlikely to go along with a free trade pact that allows Canada to get around U.S. unfair trade laws."<sup>159</sup> Sen. John Danforth believed that "if there were an agreement that circumvented American laws...there would be a real problem in the U.S. Senate and the Senate Finance Committee...I certainly would oppose it."<sup>160</sup>

During the free trade debate in Canada, many critics believed that the US would sign any agreement because they were the larger economic power and had less to lose from a trade pact. This was far from the case. The negotiators recognized that any Canada-US FTA would have to

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<sup>157</sup> John Howard, "A Thinly Veiled Push for Protectionism," *New York Times*, 31 May 1987, F2.

<sup>158</sup> Murray, "Baldrige Urges Veto," 14; Ronald Reagan, "Statement on House of Representatives Action on the International Trade Bill," 29 April 1987, *Public Papers of Ronald Reagan* [Accessed April 2009], Available online at: <http://www.reagan.utexas.edu/archives/speeches/1987/042987b.htm>; Bernard Weinraub, "Reagan Tells Congress to Shun Protectionism," *New York Times*, 6 September 1987, 28; Reagan also threatened to veto the Senate trade bill. See Ronald Reagan, "Statement on the International Trade Bill," 21 July 1987, *Public Papers of Ronald Reagan* [Accessed April 2009], Available online at: <http://www.reagan.utexas.edu/archives/speeches/1987/072187d.htm>

<sup>159</sup> "Canadian Trade Pact in Question," *Washington Post*, 6 August 1987, E3.

<sup>160</sup> "Canadian Trade Pact," E3.

benefit both sides. The FTA would also have to please Congress itself in order to make the agreement law, pursuant to the fast-track negotiating provision of the 1984 *Trade and Tariff Act*. Under the fast-track provisions, Congress' ability to make amendments to the agreement was surrendered.<sup>161</sup> It was no surprise when the US was reluctant to budge on Canada's request for reduced vulnerability to US trade remedy laws in late September – the primary cause of Reisman suspending negotiations.<sup>162</sup> As the *WP* explained, “Canadians want assurance that free trade doesn't mean endless guerilla warfare against Canadian producers in American courts.”<sup>163</sup>

An agreement in principle was finally reached on 4 October 1987. On 2 January 1988, Reagan signed the official text. A few days later, he praised the agreement in a radio address: “I have no doubt that history will prove this agreement a boon to both our peoples... the path to economic growth, job creation, and security is through negotiation and cooperation, not protectionism.”<sup>164</sup> Now he would have to secure Congressional approval.

US Trade policy considerations in 1988 revolved around two fundamental issues: the back and forth revisions and voting of the 1988 Omnibus Trade and Competitiveness Act, and the Reagan administration's attempt to gain House approval of the newly signed CUSFTA. Early in 1988 Reagan threatened to veto any trade bill which he believed contained provisions that restricted overall trade between the US and its trading partners: “My veto pen remains ready and available if the final work product of the conference remains antitrade, anticonsumer, antijob and antigrowth,” he threatened.<sup>165</sup> Reagan also rejected the Gephardt amendment because he believed American exports were improving and that proposed retaliation would stunt that

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<sup>161</sup> “Free Trade—And Risk—With Canada,” *Washington Post*, 24 August, 1987, A14.

<sup>162</sup> “Canada Walks Out,” *Washington Post*, 25 September 1987, A24.

<sup>163</sup> “Canada Walks Out,” A24.

<sup>164</sup> Ronald Reagan, “Radio Address to the Nation on the United States-Canada Free Trade Agreement,” 9 January 1988, *Public Papers of Ronald Reagan* [Accessed April 2009], Available online at: <http://www.reagan.utexas.edu/archives/speeches/1988/010988a.htm>

<sup>165</sup> Quoted by Stuart Auerbach, “President Cautions Hill on Trade,” *Washington Post*, 12 March 1988, D10.

growth.<sup>166</sup> The bill eventually passed the House but was vetoed, as promised, by Reagan on 24 May 1988. Interestingly, his message to the House on why he rejected the bill did not contain a reference to the Gephardt amendment. He focused instead on the bill's provision that required companies to give workers a mandatory notification of plant closings or layoffs, which would force weak businesses to close "by driving away creditors, suppliers, customers, and – in the process destroying jobs."<sup>167</sup> Reagan disliked other perceived disincentives of the bill, including restrictions on the export and transportation of Alaskan oil, a change in the *Trading With The Enemy Act* that inhibited the president from blocking enemy propaganda, and the creation of the Council of Competitiveness to address US export strength because it adhered too strongly to special sectoral interests. He was more optimistic on the new draft of the bill, however, because he believed most of the overtly protectionist aspects of the bill were eliminated.<sup>168</sup>

Finally, on 23 August 1988, Reagan signed a revised copy of the Omnibus Trade and Competitiveness Act, concluding a four year struggle between the House, Senate and his administration. The Senate approved the bill on 3 April by an 85-11 margin.<sup>169</sup> The plant closing measure was eventually passed by both the Congress and House, and Reagan allowed it to become law. Moreover, supporters of the bill claimed it would open markets, not close them, as trade partners would be forced to comply or face retaliation. The bill also permitted US investigations of unfair trade and retaliatory authority if other nations did not reduce barriers, and established a \$1 billion dollar skill retraining program for workers who lost their jobs due to imports. Industries could also receive relief if they were "willing to make 'positive adjustment'

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<sup>166</sup> Auerbach, "President Cautions," D11.

<sup>167</sup> Ronald Reagan, "Message to the House of Representatives Returning Without Approval of the Omnibus Trade and Competitiveness Act of 1988," 24 May 1988, *Public Papers of Ronald Reagan* [Accessed April 2009], Available online at: <http://www.reagan.utexas.edu/archives/speeches/1988/052488c.htm>

<sup>168</sup> Reagan, "Message to the House."

<sup>169</sup> "Major Trade Bill Sent to President by Senate," *New York Times*, 4 August 1988, A1.

to foreign competition.”<sup>170</sup> Moreover, the bill reduced US duties on products that the US did not produce and dictated that the president speed up unfair-trade actions in cases involving the pirating of US copyright laws or patents.<sup>171</sup> The conclusion of the Omnibus Bill represented the continuous push and pull from a protectionist leaning Congress to an administration that tried to adhere to its principles of free trade amidst a rising US trade deficit and increased foreign competition.<sup>172</sup> Direct provisions relating to Canada did not characterize the bill and the easing of the application of countervail, anti-dump and safeguard law was not passed through the bill.

The passage of the CUSFTA was the other crucial US trade policy concern of 1988. While Mulroney promoted the agreement during the 1988 Canadian election, the US Congress had to be convinced that it represented a fair bill for US companies and was in the nation’s best economic interest. In the first round of Congressional hearings in the Bentsen-chaired Senate Finance Committee, Sens. Danforth, Mitchell, Rockefeller, Baucus, and others opposed the agreement, questioning the premise that the free trade agreement actually liberalized trade between the two countries. There was not, as many Canadians alleged, complete and immediate US support for the agreement.<sup>173</sup> A fundamental concern of the opposing senators was the issue of subsidization. Sen. Danforth argued that the bill did not completely eliminate Canadian subsidies, specifically for commodities, which ultimately represented a Canadian competitive

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<sup>170</sup> “Major Trade Bill,” D19.

<sup>171</sup> Monica Langley and Walter S. Mossberg, “Senate Approves Major Trade Measure by Vote of 85-11 and Sends it to Reagan,” *Wall Street Journal*, 4 August 1988, 3.

<sup>172</sup> Displaying Reagan’s skepticism of any overtly protectionist legislation, he vetoed a Senate passed textile bill that sought to freeze shoe imports at 1987 levels and curb imports of textile and apparel into the US. The argument from Reagan was simple- it would create more harm than good, inciting trade partners to put up barriers and result in even fewer US jobs. Helen Dewar, “Senate Passes Textile Import Curbs,” *Washington Post*, 10 September 1988, A1, A9; Ellen Hume, “Reagan Vetoes Bill to Limit Textile Imports,” *Wall Street Journal*, 29 September 1988, 62.

<sup>173</sup> Lloyd Bentsen (Chairman), “United States-Canada Free Trade Agreement—1988,” *Hearing Before the Senate Committee on Finance, 100<sup>th</sup> Congress, 17 March 1988* (Washington: U.S. Government Printing Office, 1989): see introductory statements of Senators, 1-35. \*Herein referred to as “Hearing,” unless otherwise noted.

advantage in its production of goods, and therefore was not a liberalized agreement.<sup>174</sup> Sen. Mitchell argued that, in one sense, the CUSFTA was liberalizing in that it removed tariffs, but he claimed that there were “many other provisions which preserve and validate trade-restrictive, trade-distorting, and trade-protectionist policies on both sides. It is inaccurate to call this a free trade agreement.”<sup>175</sup> In particular, Mitchell stressed his jurisdiction’s potato industry which he believed was undercut by subsidies to Canadian potato farmers.

Sen. Baucus of Montana was skeptical of the CUSFTA because it did not contain an “enforcement mechanism to really get at lowering each country’s subsidies.”<sup>176</sup> He believed Canadian subsidies were much larger than US subsidies. Sen. Packwood was still unhappy with the ever-irritating lumber issues, and cited the Canadian Mortgage Housing Corporation that restricted the use of American plywood because of its weak stability in the colder Canadian winter.<sup>177</sup> Sen. Durenberger voiced disapproval with the fact that the agreement did not specifically address CVD law in either country and cited an 85 percent Canadian tariff on US corn that was extremely restrictive to US corn exporters.<sup>178</sup> The concerns with Canadian subsidies and CVD and AD law characterized the main US opposition to the agreement. One member of the finance committee opposed the agreement because of his reluctance in paying \$3 for an Ontario fishing license.<sup>179</sup>

Senators in favour of the CUSFTA believed that overall - and particularly in terms of the service industries - liberalized provisions would bring net benefits to both countries.<sup>180</sup> Congress eventually agreed to sign the CUSFTA Implementation Act after it secured “guarantees” in two

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<sup>174</sup> Danforth, “United States,” *Hearing*, 4.

<sup>175</sup> Mitchell, “United States,” *Hearing*, 5.

<sup>176</sup> Baucus, “United States,” *Hearing*, 7.

<sup>177</sup> Packwood, Baucus, “United States,” *Hearing*, 20.

<sup>178</sup> Durenberger, “United States,” *Hearing*, 38.

<sup>179</sup> Carney, *Trade Secrets*, 237.

<sup>180</sup> Lloyd Bentsen (Chairman), “United States-Canada Free Trade Agreement—1988,” *Hearings Before the Senate Committee on Finance, 100<sup>th</sup> Congress, 12 and 13 April 1988* (Washington: U.S. Government Printing Office, 1988).

important concessions to the agreement: “that the United States government would monitor Canadian subsidy programs and report on them to Congress every year,” and that the government would use the ITC to oppose Canadian industries they believed used subsidies to compete unfairly.<sup>181</sup> It is no surprise that the Senators only approved the bill under these circumstances. They reflected the strong and long-developed views of Congress that US corporations suffered due to the “unfair” trade practices of foreign competitors. Ironically, the liberalizing CUSFTA was accepted only under terms that satisfied protectionists in Congress.

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US government and media sources reveal the strength of political and legislative protectionism within the House and Senate throughout the 1980s. Protectionism resurfaced as a defensible position and solution to many in Washington. Increased competition from the US’s major trading partners, the 1981-1982 world recession, declining productivity in key American industries, an overvalued US dollar, and spiking US trade deficits all contributed to a dismal and uncertain global trading environment. This provoked closer US scrutiny of the trading practices of its partners - particularly Canada, Japan and the EEC - and ensuing pleas for protection from both industry and Congressional representatives. The US also sought restrictions on products from Taiwan, Brazil, Mexico, and South Korea. Protectionist forces did not discriminate, though the number of irritants was largely relative to the volume of trade with competitors.

The proliferation of bills seeking protection, retaliation, and imposition of tariff and NTBs, and the general increase in CVD and AD petitions resulting in ITC and ITA investigations, suggest that protectionism grew more attractive as a political and legal policy alternative in the early 1980s. At the presidential level, the Reagan Era can be regarded as a time

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<sup>181</sup> Clyde Farnsworth, “How Congress Came to Love the Canada Free-Trade Bill,” *New York Times*, 5 June 1988, E4.

of both resistance and promotion of trade liberalization. The 1984 *Trade and Tariff Act* provided the legal basis for fast-track bilateral negotiations with the US's trading partners, yielding the 1985 US-Israel FTA and the historic CUSFTA. Washington's push for liberalized global trade and its aggressive approach to the Tokyo and Uruguay Rounds resulted primarily from its objections to its partners' trading practices. This was fundamentally influenced by Washington's fundamental goal: to encourage free trade through the promotion of the reduction of tariff barriers. The threat of retaliation through select "protectionist" measures was domestically viewed as a potential means of opening "closed" markets.

Although the House foisted protectionist bills and pressures on the Reagan administration, many bills were vetoed or watered down from their original appearance to satisfy the administration. Many of the blatantly protectionist bills that Reagan did sign were aimed at countries other than Canada. By 1987 and 1988 "protectionism" became a dirty word in Congress and was perceived as an impediment to new trade legislation. It took much revision to pass the first Omnibus Trade Bill of 1984, and three years of revisions of the second Omnibus Trade Bill to be officially signed into law, despite strong Congressional support. The USTR and Reagan administration went so far as to artificially devalue the US dollar in an attempt to reduce its trade deficits and the protectionism it caused.

From a Canadian perspective, the sources reinforced a distinction between actual *realized* protectionist measures, and their mere *threat*. Derek Burney reminisced in his memoirs that the Reagan administration mostly adhered to its own ideological position on free trade in practice.<sup>182</sup> This assertion suggests that in hindsight, the threat was not as imminent as many proponents argued. The Reagan administration acted in favour of very few protectionist bills brought forth in Congress. The imagery of "Fortress America" that existed in many Canadian minds was

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<sup>182</sup> Burney, *Getting It Done*, 114.

borderline hyperbole. Paradoxically, open US markets to imports exacerbated protectionist pressures. Nonetheless, the increased application of US trade remedy law and investigations clearly demonstrated protectionist strength and a considerable threat to Canada. Pending legislation was often watered down, but countervail, anti-dump and safeguard law was entrenched into US trade law and actively practiced.

Reagan vetoed many bills that he believed would be stifling to international trade and ultimately bad for US industry. Nonetheless, protectionist pressure was strong enough to cause the Reagan administration to stray away from its principle of liberalized trade, resulting in unforgiving barriers on Canadian, Japanese and other nations' exports that it deemed to benefit from unfair subsidies. Canadians in the 1980s were not inventing the strength of US protectionism. It thrived and created a sense of uncertainty in the Canada-US trade relationship. Thankfully for Canada, the Reagan administration's general resistance to protectionism dulled the worst potential outcomes and secured the way for the eventual signing of the CUSFTA. Protectionism was not strong enough to prevent the implementation of the comprehensive agreement, but was supported by members of the House who insisted for the increased scrutiny of Canadian trade practices following its implementation.



### Chapter 3: The Agreement – A Provisional Analysis

After Simon Reisman grudgingly halted negotiations on 23 September 1987, the drama between the two countries reached its climax. The Americans insisted that Canada accept a deal that solely reduced tariffs. Derek Burney's response was frank: "the deal we wanted, we don't see; the deal we see, we do not want."<sup>1</sup> The simple reduction of tariffs would not only benefit the US more than Canada (because Canada had higher tariffs on US products than vice versa), but it also fell short of Canada's fundamental goal – an agreement with a dispute settlement mechanism that provided "fair, expeditious and conclusive solutions to differences of view and [trade] practice."<sup>2</sup> A preferable deal for Canada would also include definitive definitions of what justified countervailable measures as a result of subsidization, a primary cause of trade disputes and protectionist retaliation.<sup>3</sup> Although the US was willing to enhance Canada's access to its market through the gradual reduction of tariffs, a dispute settlement mechanism that addressed the application of trade remedies was a "*sine qua non* for Canada."<sup>4</sup> Canada wanted reduced vulnerability to American protectionism.<sup>5</sup>

At approximately 9:00 pm on 3 October 1987, just hours before the deadline to fast-track an agreement not subject to amendments in the US Congress, Secretary Baker stormed into the Canadian caucus room with an important piece of paper: "All right, you can have your goddamn

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<sup>1</sup> Quoted in Burney, *Getting It Done*, 113.

<sup>2</sup> DEA, "Canada-United States Trade Negotiations," 4. Author's parenthesis; Simon Reisman, "Trade Negotiations – Canada's Two Track Approach: Address to University of Toronto, Faculty of Management, 29 January 1988," LAC MG31 E 112 Vol 4 File 23: 13-16.

<sup>3</sup> DEA, "Canada-United States Trade Negotiations," 3.

<sup>4</sup> Burney, *Getting It Done*, 119.

<sup>5</sup> The following definitions are important for this chapter: **Countervailing Duties**- "Additional duties imposed by an importing country to offset government subsidies in an exporting country, when subsidized imports cause material injury to a domestic industry in the importing country." **Anti-Dumping Duties**- "Additional duties imposed by an importing country in circumstances where imports are priced at less than the 'normal' price charged in the exporter's domestic market and are causing material injury to a domestic industry in the importing country." **Safeguards**- "The term 'safeguards' refers to emergency actions in the form of additional duties or import quotas applied to fairly traded imports which cause or threaten serious injury to domestic producers. The imposition of such measures is permitted under Article XIX of the GATT." Definitions quoted from Steger, *A Concise Guide*, pgs. 108, 104, and 124, respectively.

dispute settlement mechanism,” he exclaimed. “Now we can send the report to Congress.”<sup>6</sup> The original suggestion by Sam Gibbons, chair of the House Ways and Means Subcommittee on Trade, that existing trade remedy laws be subject to a binational dispute panel, appeared adequate to the Canadians. Mulroney expressed in his memoirs that it “had the beauty of simplicity and, most importantly, would involve no onerous adjustment or new restrictions on Canada.”<sup>7</sup> Previous negotiating attempts at creating shared definitions of “safe harbours” for subsidies had failed.<sup>8</sup> With an agreement reached in principle, lawyers for both governments drafted its legal text.

After both countries formally signed the CUSFTA, Canadians debated its efficacy against American protectionism. Critics argued that the dispute settlement mechanism did not sufficiently shield Canada from US protectionism because it did not define the terms for acceptable and unacceptable subsidies.<sup>9</sup> Others attacked the agreement on the basis that it made “probable the prolonged and expensive review of cases, and offers retaliation or termination of the treaty as the only recourse for violations.”<sup>10</sup> Dalhousie economist, Michael Bradfield, asserted that the agreement did “not exempt us from the application of U.S. legislation and it is clear that U.S. politicians are only too happy to protect their constituents’ perceived interests.”<sup>11</sup> On the contrary, members of the Canadian manufacturing industry believed the agreement represented a major achievement even if Canada did not secure full exemption from US trade remedy law. Canadian firms now had protection “from unilateral interpretation of U.S. laws and

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<sup>6</sup> Quoted in Burney, *Getting It Done*, 119.

<sup>7</sup> Mulroney, *Memoirs*, 568-569.

<sup>8</sup> *Ibid*, 569.

<sup>9</sup> Miller, “The Mulroney-Reagan Accord,” 4.

<sup>10</sup> Kieran Furlong and Douglas Moggach, *The Political Economy of Free Trade: Sectors, Cycle, and the State* (Ottawa: Canadian Centre for Policy Alternatives, 1988): 4.

<sup>11</sup> Bradfield, “The Free Trade Claims,” 7.

from blatant political manipulation.”<sup>12</sup> The BCNI applauded the agreement and supported the dispute settlement mechanism on the premise that it guarded against US unilateralism through the binational panel, which “guarantee[d] fair interpretation and impartial application of our respective anti-dumping and countervailing duties” and limited the “use of quotas and import surcharges” aimed at either country.<sup>13</sup> The BCNI also appreciated that no new laws impacting bilateral trade could be passed without Canadian review, and saw a bilateral commission overseeing the agreement’s implementation as a positive development.<sup>14</sup>

Existing historiography has not sufficiently analyzed the text of the CUSFTA, particularly in terms of its guards against US protectionism. The legal text is of primary importance for the historian as its provisions ultimately guided and forever shifted bilateral trade. This chapter examines whether the legal agreement provided Canada with secured, enhanced and legally enshrined access to the US market – the fundamental goal of Canada’s passionate negotiating team in their quest for an FTA.<sup>15</sup>

Canada partly achieved its goals in the agreement. It attained enhanced tariff-free trade by 1998. Modest gains were also made in Canada’s access to the US government procurement

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<sup>12</sup> J. Laurent Thibault, Charles Hantho and Barbara Caldwell, “Manufacturers Itch To Compete For U.S. Sales,” In *Free Trade, Free Canada: How Free Trade Will Make Canada Stronger*, Edited by Earle Gray (Woodville: Canadian Speeches, 1988): 36.

<sup>13</sup> Thomas P. d’Aquino, “Statement on Dispute Settlement and the Canada-United States Free Trade Agreement, 25 November 1987,” LAC MG31 E 112 Vol 3 File 5, 1-2. Author’s parenthesis.

<sup>14</sup> d’Aquino, “Statement on Dispute Settlement,” 1-2.

<sup>15</sup> The actual legal text has, of course, attracted the attention of *legal* scholars. See the collection edited by Marc Gold and David Leyton-Brown, *Trade-Offs on Free Trade: The Canada-U.S. Free Trade Agreement, A Project of the Centre for Research on Public Law and Public Policy, Osgoode Hall Law School of York University* (Toronto: Carswell, 1988); John D. Richard and Richard Dearden, *The Canada-U.S. Free Trade Agreement: Final Text and Analysis* (Toronto: CCH Canadian, 1988); Steger, “A Concise Guide”; Marjorie Montgomery Bowker, *On Guard For Thee: An Independent Analysis, Based on the Actual Text of the Canada-U.S. Free Trade Agreement* (Quebec: Voyageur Publishing, 1988); Law Firm of Blake, Cassels & Graydon, *An Analysis of the Dispute Settlement Provisions of the Canada-U.S. Free Trade Agreement Preliminary Transcript, Executive Summary, 4 November 1987* (Toronto: Ontario Legislative Assembly, 1987). Analysis of the legal text of the agreement in the historiography has been limited to a very general discussion and thus requires closer examination using the actual text. I have referenced some of the above works throughout the chapter to provide an “authoritative” legal position where I am unclear of the precise meanings of select CUSFTA provisions.

market, and the US's commitment to comprehensively apply principles of national treatment to the sectors covered by the agreement. Nonetheless, Canada did not attain legally-enshrined access to the US market. The agreement failed to develop harmonized definitions of acceptable and unacceptable subsidies. The dispute settlement mechanisms outlined in Chapters 18 and 19 represented an important and beneficial shift from unilateral interpretations of US laws to binational panels and the Canada-United States Trade Commission (CUTC). However, any Canadian gains from the reduction of conventional tariffs ultimately remained vulnerable to the application of American trade remedy law.

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Chapter 18 of the CUSFTA outlined new institutional provisions and established a GATT-like Canada-US Commission. Except for sections of the agreement on Financial Services (Chapter 17) and Binational Dispute Settlement in countervail and anti-dump cases (Chapter 19), Chapter 18 defined the terms for safeguard and escape clause procedures and all other disputes. Canada's Department of External Affairs noted that the basic objective of the institutional provisions was to "promote fairness, predictability and security by giving each Partner an equal voice in resolving problems through ready access to panels to resolve disputes and authoritative interpretations of the agreement."<sup>16</sup>

Article 1802 instituted the CUTC to "supervise the implementation of this Agreement, [and] to resolve disputes that may arise over its interpretation and application."<sup>17</sup> The Commission was to be comprised of both Canadians and Americans. 1802.2 noted that the

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<sup>16</sup> "The Canada-U.S. Free Trade Agreement," [Accessed April 2009], Available online at: <http://www.international.gc.ca/trade-agreements-accords-commerciaux/assets/pdfs/cusfta-e.pdf>, 258. This is an official copy of the CUSFTA text, directly from the Government of Canada's Department of Foreign Affairs and International Trade. This document contains DEA analysis prior to each chapter. \*The abbreviated citation of the agreement's legal text is cited throughout this chapter as simply "The Canada-U.S. Free Trade Agreement."

<sup>17</sup> "The Canada-U.S. Free Trade Agreement," 261. Author's parenthesis.

CUTC should meet at least annually to analyze how the agreement was functioning, and that all of the “decisions of the Commission shall be taken by consensus.”<sup>18</sup> Article 1803 sought to reduce the vulnerability of both countries’ exporters by requiring a written notice of any *planned* trade action or *actual* trade measure against the other country as “far in advance as possible of the implementation of the measure.”<sup>19</sup> All parties were to answer any questions as quickly as possible. Articles 1804 and 1805 legislated consultations between both parties to try to resolve a dispute within 30 days of a consultation request. If no resolution was reached between the disputing parties themselves, the CUTC was to meet within 10 days to attempt to quickly resolve the dispute.<sup>20</sup> In doing so, the CUTC could contact “technical advisors” for additional expertise in a matter, or a mediator tolerable to both parties.<sup>21</sup>

The Commission had a 30 day timeframe to resolve a trade dispute, and if no solution was reached, the Commission was to *either* refer to guidelines under Chapter 11 of the agreement that addressed Emergency Actions in accordance with Article 1806, *or* establish a binational dispute panel pursuant to Articles 1806 and 1807. The Emergency Safeguards Action essentially allowed for the use of *temporary* restrictions like quotas or surcharges if it could be determined that “surges” in imports caused “serious injury” to a domestic producer during the “transition period” (which remained in effect until the end of 1998).<sup>22</sup> Chapter 18 introduced the basic Emergency Action provisions in accordance with Article 1101 of the agreement:

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<sup>18</sup> Ibid, 262. By “consensus,” one can assume that all members must agree with each decision.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid. It should be noted that “*Unless otherwise agreed*, the Commission shall convene within 10 days and shall endeavour to solve the dispute promptly.” Thus, it would be possible to leave the matter longer than 10 days if needed given each party’s schedules.

<sup>21</sup> Ibid, 263. Article 1805.2.

<sup>22</sup> A “surge” is defined by the agreement as “a significant increase in imports over the trend for a reasonable recent base period for which data are available.” Ibid, 171; Department of External Affairs (Canada), *Canada-U.S. Free Trade Agreement: Summary, Elaborations and Clarifications to the Elements of the Agreement as Reflected in the Legal Text of the Free Trade Agreement Between Canada and the United States of America* (Ottawa: Department of External Affairs, 1987): 11.

Either country may respond to serious injury to domestic producers resulting from the reduction of tariff barriers under the Agreement with a suspension of the duty reductions for a limited period of time or a return to the most-favoured-nation tariff level (i.e., the current tariff which may in future be reduced through multilateral negotiations).<sup>23</sup>

There were limitations, however. Emergency measures could be in place for no longer than three years, unless otherwise consented to by the other party, and could only be taken *once* during the transition period. All emergency actions were also subject to compensation on the part of the party seeking the measures.<sup>24</sup>

The agreement also exempted both countries from global emergency actions instituted under Article XIX of the GATT, except in cases where “the other’s producers are important contributors to the injury caused by a surge in imports from all countries.”<sup>25</sup> The agreement regarded import amounts from five to ten percent or less as not constituting a “substantial” surge in imports. Any amount over ten percent would be evaluated against its causal extent of the total injury to a sector. Article 1102 on global actions dealing with safeguards and escape clause laws offered Canada important protection from US trade barriers not specifically directed *at* Canada. For example, if the US instituted a global emergency action against Japan on the basis of sectoral injury, and Canadians exported the same product to the US contributing to the injury of the same sector as Japan, Canada would not be subject to an emergency action from the US if its exports minutely influenced the net injury of the sector in trouble. However, if Canadian exports were deemed an important cause of injury, barriers would be justified. Debra Steger, then partner at Fraser & Beatty (Ottawa), argued that “the new FTA standards will reduce significantly the number of cases involving imports from several countries where Canadian exports have been

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<sup>23</sup> “The Canada-U.S. Free Trade Agreement,” See Chapter 11.

<sup>24</sup> *Ibid*, 170.

<sup>25</sup> *Ibid*, 167.

‘sideswiped,’ even though they represented an insignificant percentage of total imports.”<sup>26</sup> In this capacity, Canada gained increased security of access to the US market because it was excluded from safeguards, import quotas, or additional duties against third party countries’ exports. Canada also gained the ability to contest a safeguard measure under Article 1103.<sup>27</sup> As opposed to previous cases like shakes and shingles where the US government imposed a safeguard measure on Canada which could not be challenged, under the CUSFTA, Canada could dispute the decision under the binational Commission and panel.

If a dispute was not dealt with via Chapter 11 safeguard procedures, the disputants could pursue “binding arbitration.” This was the more likely route, given that the Commission does not formally review any decisions reached through the Chapter 11 procedures. Articles 1806 and 1807 essentially formed a binational arbitration panel. Firstly, the panelists were to be experts in their respective fields and chosen on the basis of objectivity. They were not permitted to take instructions or counsel from either party of the dispute.<sup>28</sup> Each 5 person panel had to have at least 2 Canadian citizens and 2 American citizens, appointed by each party. The fifth panel member was to be jointly chosen by the CUTC in accordance with 1807.3. If the Commission could not agree on the fifth panelist member within 15 days, the 4 appointed panelists had to decide on one within 30 days or he/she would be chosen from the list of eligible panelists created pursuant to 1807.1.<sup>29</sup> The panel would then analyze the arguments, both written and oral, of the disputants. Paragraph 5 of 1807 gave the panel a three month window to produce its initial report on the dispute. Subsequently, both parties were invited to present any objections back to the

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<sup>26</sup> Debra P. Steger, “Dispute Settlement,” In *Trade-Offs on Free Trade: The Canada-U.S. Free Trade Agreement* (Toronto: Carswell, 1988): 184.

<sup>27</sup> “Safeguard Measures” refer to numerous types of quantitative restrictions, import quotas, or duties.

<sup>28</sup> “The Canada-U.S. Free Trade Agreement,” 264.

<sup>29</sup> According to the text, “if a Party fails to appoint its panelists within 15 days, such panelists shall be selected by lot from among its citizens described in paragraph 1.” Ibid, 264. Paragraph 1 outlines that the CUTC should maintain a list of potential panelists able to serve who “have expertise in the particular matter under consideration. Panelists shall not be affiliated with or take instructions from either Party.”

dispute panel. If necessary, the panel could reconsider its decision and then “make any further examination that it deems appropriate and issue a final report” within 30 days of the initial report.<sup>30</sup> The CUTC should ultimately agree with the panel’s resolution. According to the agreement, “whenever possible, the resolution shall be non-implementation or removal of a measure not conforming with this Agreement or causing nullification or impairment in the sense of Article 2011 or, failing such a resolution, compensation.”<sup>31</sup> Essentially, the resolution should be in accordance with the basic agreement and CUTC.

Chapter 18 provisions represented a significant shift in solving trade disputes: from *unilateral* interpretations and deliberations of trade irritants to *bilateral* procedures and participation. While not perfect, it offered security against potentially protectionist US trade sanctions, resolutions or decisions against Canada purely based on US interpretations of trade laws within the US ITC, ITA and White House administration. The creation of the CUTC provided Canada with the opportunity to participate in the decision-making process overseeing the agreement and to ensure that the panelists’ conclusions were consistent with the elements of the agreement. The panel procedures were consistent with the bilateral goal. Not only were panelists chosen on the basis of expertise, perceived objectivity and non-partisan affiliations, but they were to be both Canadian and American. As such, any potential interpretations of trade laws and subsequent remedies or compensatory programs would no longer solely depend on the ruling of a US institution.

A major underlying assumption of the Chapter 18 creation of the CUTC and binational dispute panel was that by having Americans and Canadians both present on the Commission and panel process, a more “impartial” resolution might be passed. Although this represented a

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<sup>30</sup> Ibid, 265.

<sup>31</sup> Ibid.



significant step in the right direction for Canada, it did not necessarily ensure objective treatment of both parties' positions in a dispute. If panel members were not supposed to align themselves with a country's position, or give special credence to a particular point of view in accordance with basic standards of objectivity, the presence of a specified number of Americans or Canadians should theoretically be irrelevant in coming to "fairer" decisions. ("Fair," of course, could not necessarily imply rulings in Canada's favour, but a balanced consideration of the facts of the case). The possibility remained that US interpretations of Canadian trade practices could be just as irritating, politically motivated or in accordance with US institutional clout. Perceptions of each country's trade laws were still subject to the interests of both parties.

Moreover, Article 1807.9 of the panel procedures indicated that if the CUTC could not agree on a solution to a dispute, the possibility of *retaliation* on the part of the "wronged" party remained *open*:

If the Commission has not reached agreement on a mutually satisfactory resolution under paragraph 8 within 30 days of receiving the final report of the panel...and a Party considers that its fundamental rights (under this Agreement) or benefits (anticipated under this Agreement) are or would be impaired by the implementation or maintenance of the measure at issue, the Party shall be free to suspend the application to the other Party of benefits of equivalent effect until such time as the Parties have reached agreement on a resolution of the dispute.<sup>32</sup>

The ability of any party to seek "benefits of equivalent effect" until an agreement was reached indicated that retaliation was justifiable. It remained ambiguous how "benefits of equivalent effect" would be measured or what type of retaliatory measures would be acceptable in such cases. These were two obvious points of contention. Under 1807.9, Canada was still legally susceptible to US protectionist retaliation in cases where the Commission could not agree on the

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<sup>32</sup> Ibid.

resolution of a dispute. Retaliatory measures were limited to the duration of the dispute, however, so they could not result in permanent measures under the CUSFTA.<sup>33</sup>

A positive aspect of the Chapter 18 dispute process was its focus on timeframes. Under various provisions, both parties could look forward to receiving a decision in a timely manner, and, in accordance with the 1807 panel procedures, a decision could be expected from the CUTC in about eight months of the initial complaint, barring any unavoidable circumstances or delays prescribed by the parties of the dispute themselves.<sup>34</sup> As Gotlieb emphasized throughout the free trade debate, the expensive and lengthy legal battles almost existed as another non-tariff barrier as Canadian companies and their lead institutions would have to pay millions in legal costs to fight numerous trade complaints from the US, including those of safeguard measures covered by Chapter 18.<sup>35</sup> Thus, the CUSFTA limited the chances of drawn-out and costly multi-year trade disputes over a single irritant, and invoked a more predictable timeframe for industries to expect a decision.

Overall, the Chapter 18 institutional provisions represented an important shift from unilateralism to bilateralism. Although this Chapter of the FTA was not “bullet-proof” and Canada was not completely immune to short-term US retaliation under article 1807, it gave Canada increased protection from unilateral US protectionism in a timely and increasingly fair manner through the CUTC and binational dispute panels.

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<sup>33</sup> Ibid; Stephen Clarkson, “The Canada-United States Trade Commission: The Political Implications of CUSTER for Canada,” In *Trade-Offs on Free Trade: The Canada-U.S. Free Trade Agreement* (Toronto: Carswell, 1988): 165.

<sup>34</sup> “The Canada-U.S. Free Trade Agreement,” 263-265. Articles 1805 to 1807 highlight the acceptable timeframes of each part of the dispute process.

<sup>35</sup> Gotlieb, *Washington Diaries*, 386. Gotlieb wrote in his diary that, in particular, the lumber countervail petition represented a “new form of protectionism: procedural harassment.” This was not just limited to lumber, but the continuous petitions being put forward through various US trade bodies.

Chapter 19, dealing specifically with disputes over anti-dump and countervail cases, was one of the most anticipated and important aspects of the CUSFTA. CVDs and ADs were the more severe forms of economic barriers to bilateral trade in comparison to conventional tariffs. Between 1980 and mid-1987, the US launched 11 countervail and 20 anti-dumping cases and took action on about half.<sup>36</sup> The fundamental Canadian goal, of course, was to gain clearer definitions of “countervailable financial assistance programs (i.e., subsidies) to industry, agriculture, and fisheries, thus reducing the threat of countervailing duties” and to reduce its exposure to US trade remedy laws through a dispute settlement mechanism designed to “increase predictability and security for Canadian exporters to the United States.”<sup>37</sup> The DEA explained in its preceding Chapter 19 comments that, “actions taken under U.S. trade remedy laws against Canadian exports have had a detrimental impact on investment and employment in Canada, and have become a major irritant in Canada-U.S. relations.”<sup>38</sup> Canadians would have been satisfied with a binding dispute settlement mechanism in tandem with new countervailable specifications.

The Chapter 19 provisions represented an important step for the overall, long-term Canada-US trading relationship. It significantly improved the potential for the fair binational resolve of anti-dumping and countervail disputes. Although the commitment of both countries to develop a mutually agreeable trade law system was positive, the fundamental Canadian aim of reducing exposure and vulnerability to US protectionist trade remedies was not achieved on an immediate basis from a legal perspective.

Articles 1906 and 1907 of Chapter 19 set up the framework for the creation of a Canada-US “substitute system of rules in both countries for antidumping and countervailing duties as

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<sup>36</sup> Lester and Morehen, “Trade Barriers,” 28. For reference, Canada launched only 1 countervail case against the US in the same period and 41 anti-dumping cases.

<sup>37</sup> DEA, “Canada-United States Trade Negotiations,” 3; “The Canada-U.S. Free Trade Agreement,” 267.

<sup>38</sup> “The Canada-U.S. Free Trade Agreement,” 267.

applied to their bilateral trade.”<sup>39</sup> The negotiations on new subsidies rules applicable to both countries were subject to a maximum period of seven years. After that time, the “failure to agree to implement a new regime....shall allow either Party to terminate the Agreement on six-month notice.”<sup>40</sup> The CUSFTA could be cancelled, keeping open the possibility for Canadian companies to face increased protectionism if the negotiations were unsuccessful. The “Working Group” established by Article 1907 was created to “develop more effective rules and disciplines concerning the use of government subsidies;... seek to develop a substitute system of rules for dealing with unfair pricing and government subsidization,” and to address any issue that arose with the implementation of Chapter 19.<sup>41</sup> As it turned out, Canadian exporters did not achieve greater predictability because the agreement did not enshrine clear definitions of subsidization rules. Existing legal standards of the GATT would suffice until then.<sup>42</sup> The additional possibility that talks on subsidies would not succeed left open the threat of a shaky Canada-US trading relationship and did not legally encourage short-term investment.<sup>43</sup>

While the CUSFTA failed to include explicit rules on subsidies, it is important to remember that issues of legal sovereignty over domestic trade laws were of primary importance to both countries during talks. Given the strong climate of protectionism in the US House and Senate established in Chapter 2, there existed a bi-partisan impetus amongst the free traders and protectionists encouraging the prosecution of “unfair” trade practices amongst its trading

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<sup>39</sup> Ibid, 279.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> John J. Quinn, “A Critical Perspective on Dispute Settlement,” In *Trade-Offs on Free Trade: The Canada-U.S. Free Trade Agreement* (Toronto: Carswell, 1988): 188-190. Quinn argued that this was unfortunate, as GATT legal standards on CVD and AD law remained vague, and that GATT definitions had “never received any authoritative interpretation by GATT dispute resolution panels.” Also, Quinn believed that GATT failed to enforce its standards regardless.

<sup>43</sup> Quinn, “A Critical Perspective,” 189. The economic argument of the Canadian government was that legal safeguards would make conditions more favourable for investment. With the absence of those conditions, the legal basis for this claim was not present.

partners. This could only be accomplished with full sovereignty over domestic laws, which Washington guarded tightly.<sup>44</sup> From the Canadian perspective, subsidization programs supported by various levels of government had to be dealt with during negotiations. This was difficult, as “implications for Canada would have been more severe than those for the United States,” Mulroney explained. “Because so much of what Canada produces has a trade dimension, unlike the U.S. with its massive internal market, any measure to modify subsidies or other supports to industry would have been much more restrictive for Canada.”<sup>45</sup> The difficulty in coming to a consensus on acceptable subsidies stemmed from these concerns. Time restraints resulting from the “fast-track” US negotiating authority did not help matters, as it was clear that repeated attempts to define subsidization rules failed during negotiations and were too onerous to complete prior to the 4 October 1987 deadline.<sup>46</sup> The difficulty in establishing such a system was obvious given the seven-year window allotted by the CUSFTA to create a new system. Both countries were aware of the complexity and constructed the CUSFTA accordingly.

As the Working Group developed a new system outlining subsidization practices and harmonization of Canadian and American countervail and anti-dumping laws, Article 1904 set up provisions for the *immediate* creation of a dispute settlement mechanism that applied both countries’ AD/CV laws to any future disputes. It established a bilateral panel to adjudicate disputes in the interim, thus replacing the “judicial review of final antidumping and countervailing duty determinations.”<sup>47</sup> At the same time, each country retained its full ability to apply domestic countervail and anti-dumping laws to the trade practices of exporters pursuant to Article 1902. Existing countervail and anti-dumping laws could be grandfathered up to 1 January

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<sup>44</sup> Steger, “Dispute Settlement,” 186.

<sup>45</sup> Mulroney, *Memoirs*, 569.

<sup>46</sup> *Ibid.*

<sup>47</sup> “The Canada-U.S. Free Trade Agreement,” 273.

1989.<sup>48</sup> Each country also retained its rights to “change or modify its antidumping law or countervailing duty law.”<sup>49</sup> In accordance with 1902.2.a, Canada would have to be explicitly mentioned if the US decided to amend any new anti-dumping or countervail laws that could potentially impact Canada.<sup>50</sup> 1902.2.d specified that any changes to domestic laws must be consistent with the GATT, specifically Article VI dealing with anti-dumping codes, and subsidies codes outlined in Articles VI, XVI, and XXIII.<sup>51</sup>

Any legal revisions were to be consistent with the “object and purpose of this Agreement and this Chapter, which is to establish fair and predictable conditions for the progressive liberalization of trade between the two countries while maintaining effective disciplines on unfair trade practices.”<sup>52</sup> The agreement placed no requirement for the assessment of US anti-dumping or countervail laws *already in place*.<sup>53</sup> By allowing grandfathered changes up to 1 January 1989, Canada remained vulnerable in the short-term. The CUSFTA attempted to smooth the transition process, however, by allowing each country to adjust its respective trade practices over time while attempting to uphold the major liberalizing goal of the agreement.

These legal provisions evidently failed to create a more “predictable” trade climate under agreed upon terms of acceptable and unacceptable subsidies. They also upheld each country’s right to pursue compensatory measures from each other’s exporters through CVDs and ADs. Nonetheless, Canada secured an *improved* context for applying US trade remedy laws to disputes– it did not take a “step back” in terms of its legal exposure to US protectionism. One

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<sup>48</sup> Richard and Dearden, “The Canada-U.S. Free Trade Agreement,” 65.

<sup>49</sup> “The Canada-U.S. Free Trade Agreement,” 271.

<sup>50</sup> Ibid; Steger, “Dispute Settlement,” 183.

<sup>51</sup> “The Canada-U.S. Free Trade Agreement,” 272.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid, (Article 1902); Quinn, “A Critical Perspective,” 190. Quinn argued that some existing US laws “may not conform with GATT standards,” as certain US requirements for implementing and finding material injury were to be “not *immaterial or insubstantial*,” whereas the GATT material injury test noted that proof of “*material injury*” must be provided. This is a crucial distinction.

procedural improvement was in the binational panel that would make the interpretation of US laws subject to Canadian experts in dealing with dumped or subsidized imports, as opposed to unilateral decisions made by a federal US court, ITC or ITA, susceptible to political pressure. With the presence of binational counsel, countervail and anti-dump cases would be subject to a review panel of “whether such determination was in accordance with the antidumping or countervailing duty law of the importing Party.”<sup>54</sup> The panel was directed to analyze, in its assessment of each country’s countervail and anti-dump laws, the statutes and their legislative history, “regulations, administrative practice, and judicial precedents to the extent that a court of the importing Party would rely on such materials in reviewing a final determination.”<sup>55</sup>

Canadian panel members therefore gained the right to assess whether trade disputes had any weight in terms of US law (1904.3), instead of a US federal court. The replacement of the binational panel for a single US judge did not alter the fact that the panel would still have to weigh US laws against the same standards that the U.S. Court of International Trade would utilize. If it could be proven that “substantial evidence” existed to support the position of the US ITC or ITA that a decision was consistent with US laws, the panel would have to legally uphold the decision. John Quinn, partner at Cassels, Brock and Graydon (Toronto), argued that upholding an ITC or ITA decision based on its plausibility to US law and determinations of substantial evidence was “not a very demanding standard to satisfy.”<sup>56</sup> The substitution of the binational panel could not change how “substantial evidence” tests were to be applied in countervail and anti-dump cases.<sup>57</sup> US laws and standards of evidence still applied while the new laws were being formed; the only change was essentially *who* interpreted relevant laws and case

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<sup>54</sup> “The Canada-U.S. Free Trade Agreement,” 273.

<sup>55</sup> *Ibid.*

<sup>56</sup> Quinn, “A Critical Perspective,” 192.

<sup>57</sup> *Ibid.*

evidence. The Canadian perspective on the application of those laws represented a procedural gain, but was not necessarily an improvement in how those laws were to be applied.

The underlying assumption of the argument that there would be increased objectivity in the rulings of a binational panel against a US federal court judge is that a US judge could not be objective or removed from direct political pressures. This is a serious criticism of the US justice system, and to assume the automatic lack of objectivity in the American system is dubious and unsupported. The Chapter 19 panel procedures, like those of Chapter 18, do not necessarily guarantee objectivity but at least start to quell the worry that US trade laws would be interpreted in an unfair way against Canada due to unilateral applications of law and interpretations of the case evidence.

In accordance with Annex 1901.2 (Establishment of Binational Panels), panelists were to be chosen from a list of 50 potential members shown to be “of good character, high standing and repute, and shall be strictly chosen on the basis of objectivity, reliability, sound judgment, and general familiarity with international trade law,” on an as-needed basis as disputes arose.<sup>58</sup> In their 1988 analyses, lawyers Debra Steger and John Quinn raised doubts about the effectiveness of the *ad hoc* nature of panels rather than one comprised of permanent positions. Quinn argued that “the selection of panelists on a case-by-case basis is likely to make future panels more deferential to official (government-espoused) interpretations of AD/CV duty laws.”<sup>59</sup> He also contended that selected panelists would not develop a larger set of overall goals of the FTA. Furthermore, to be selected on future panels the panelists would be inclined to decide in favour

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<sup>58</sup> “The Canada-U.S. Free Trade Agreement,” 285.

<sup>59</sup> Quinn, “A Critical Perspective,” 191.



of their respective governments.<sup>60</sup> Steger asserted that the *ad hoc* nature of the panels was not conducive to a more “integrated, authoritative, permanent, independent institution.”<sup>61</sup>

These were valid criticisms, but were not absolute. Having permanent panelists might lead to a stagnant or steered vision for the CUSFTA. Panelists might feel pressured into sustaining certain precedents of past cases only because the panel previously decided on them and not necessarily because they represented the fairest interpretation of applicable laws. Close to this point, on a case-by-case basis, the issues and evidence could be *markedly* different. Either US or Canadian laws would have to be analyzed depending on who launched the dispute, which could be potentially onerous on panel members and even confusing in attempting to properly distinguish between both sets of technical laws. On a fundamental level, putting the power of Chapter 19 into the hands of *five* people per term was a large and risky bet for future Canada-US trade. The completion of the CUSFTA required the work, analysis and cooperation of *hundreds* of Canadian and American politicians, legal experts, and bureaucrats.

Moreover, a system of permanent panel-members instead of *ad hoc* members would certainly not eradicate the potential for political pressure. Concessions would most likely be sought between the panelists themselves on various issues, not to mention obvious general pressures from their government of citizenship to continue to pursue rulings in their favour. If anything, this would be *magnified* between the 2 or maximum 3 Canadians on the panel compared to dozens that could be chosen on an *ad hoc* basis. There is less of a chance of “deal-making” between panelists on cases with different panel members than with panelists familiar with one another’s biases and interpretations of Canadian and US laws. Permanent panelists may be subject to making concessions to one another more than people serving on *ad hoc* panels. A

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<sup>60</sup> Ibid.

<sup>61</sup> Steger, “Dispute Settlement,” 186.

sense of arbitrary diplomatic concession making could easily characterize the dispute settlement process in a permanent panel. Another important point is that the panels were to be 5 member panels and therefore not based on equal representation. With an unequal weighting it would be difficult for the panels to reach the necessary “consensus” on an issue, exacerbating the possibility of dissenting members making concessions.

One benefit of the dispute settlement panel process to Canadian exporters were the precise timelines to resolve disputes. Prior to the CUSFTA, Canadian exporters not only had to pay hefty litigation bills, but had to present their case to the US ITC, Department of Commerce ITA, US Court of International Trade, and sometimes Congress. Industry also had to pay duties owed *during* litigation after a preliminary ruling against Canada.<sup>62</sup> The new 10-month timeline for a panel dispute decision represented a significant improvement for Canadian exporters. Prior cases reviewed by the US Court of International Trade took *at least* two years, with several cases lasting longer and thus entailing more expense for Canadian exporters.<sup>63</sup> Furthermore, under the CUSFTA, the Canadian government would have to request a binational panel on behalf of an industry or corporation and would therefore assume a portion of the litigation costs.<sup>64</sup>

The issue of dispute settlement was also fundamental in appraising the overall benefits to Canadian exporters from tariff-free trade with the United States. If Canadian exporters were still subject to CVDs or ADs after tariffs were reduced, the gains from liberalization of trade could be erased. Nonetheless, the creation of the binational panel represented an important shift toward a Canada-US trading partnership. In the short-term, Canada remained fully susceptible to US protectionism via anti-dumping and countervail laws for a maximum of seven years until rectified. With the conclusion of the 1994 NAFTA (which legally superseded the CUSFTA), it is

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<sup>62</sup> Ibid, 184.

<sup>63</sup> Quinn, “A Critical Perspective,” 194.

<sup>64</sup> Steger, “Dispute Settlement,” 184.

ironic to note that no explicit definitions on subsidies were established. During NAFTA negotiations, the attempt at developing trilateral definitions of CV and AD laws failed again, leaving disputes to a trilateral trade panel similar to the Chapter 19 provisions of the CUSFTA.<sup>65</sup>

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The CUSFTA satisfied Canada's goal of attaining broad tariff reductions, creating an increasingly liberalized free trade area. The tariff reductions represented about a 20 percent increase in the overall tariff-free trade in goods and services over a 10 year period. It was the largest liberalized trade agreement signed by two countries.<sup>66</sup> Tariffs were the most prevalent bilateral form of protection and their removal essentially improved Canadian access to the crucial US market. The CUSFTA also met the Article XXIV GATT provision, paragraph 8(a)(i), which stated that any negotiated FTA had to eliminate duties on "substantially all the trade between the constituent territories of the union."<sup>67</sup> It was also the first comprehensive agreement to liberalize trade on services and investment, and reduced agricultural tariffs not covered by the GATT.<sup>68</sup> The agreement also *secured* Canada's access to tariff-free sectors of the US economy that existed prior to the agreement by legally *stating* otherwise already enjoyed tariff-free access. The CUSFTA did not require Canada or the US to develop a common trade policy with countries not included in the agreement.

The removal of tariffs represented a significant gain for Canada. High tariffs of 15 percent or more prior to the CUSFTA prevented Canadian companies from achieving economies

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<sup>65</sup> Gary C. Hufbauer, and Jeffrey H. Schott, *NAFTA: An Assessment* (Washington: Institute for International Economics, 1993): 102.

<sup>66</sup> "The Canada-U.S. Free Trade Agreement," 7.

<sup>67</sup> "The General Agreement on Tariffs and Trade (GATT 1947)," [Accessed April 2009], Available online at: <http://www.worldtradelaw.net/uragreements/gatt.pdf>, 31; Steger, "A Concise Guide," 1; "The Canada-U.S. Free Trade Agreement," 9. Article 101 stated that: "The Government of Canada and the Government of the United States of America, consistent with Article XXIV of the General Agreement on Tariffs and Trade, hereby establish a free-trade area."

<sup>68</sup> "The Canada-U.S. Free Trade Agreement," 7; Steger, "A Concise Guide," 18.

of scale, and their removal increased the potential for Canadian employment and improved competitiveness. High tariffs on petrochemicals, clothing, metal alloys, and zinc alloy had prevented these industries from establishing manufacturing facilities. The consumer was similarly disadvantaged by high tariffs, which inflated prices.<sup>69</sup>

Tariffs were to be eliminated in stages beginning on 1 January 1989 and ending 1 January 1998 pursuant to Article 401.<sup>70</sup> This nine year period was outlined as sufficient to remove tariff barriers and give sensitive industries time to adjust. In accordance with Annex 401.2, some tariffs under Category A were to be abolished immediately when the agreement came into force. Category B goods were to be eliminated through five annual reductions of 20 percent per annum, and Category C duties were to be removed 10 percent per year for 10 years.<sup>71</sup> The Chapter 11 Emergency Action provision was retained to invoke a previous tariff level wherever increased imports caused “substantial” material injury to any domestic industry.<sup>72</sup> Additionally, if both countries agreed, the removal of tariffs on certain products or services could be accelerated pursuant to 401.5.<sup>73</sup>

The tariff reductions outlined in the agreement were subject to rules of origin, a fundamental aspect of any FTA.<sup>74</sup> Fundamentally, the CUSFTA rules of origins meant that goods not subject to tariffs were to be Canadian or American in “origin.” For example, natural resources contained in Canadian lands would certainly be classified as originating in Canada, in

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<sup>69</sup> “The Canada-U.S. Free Trade Agreement,” 42.

<sup>70</sup> *Ibid.*, 49-50.

<sup>71</sup> Department of External Affairs, “The Canada-U.S. Free Trade Agreement: Tariff Schedule of the United States,” [Accessed April 2009], Available online at: <http://www.international.gc.ca/trade-agreements-accords-commerciaux/assets/pdfs/FTA-Tariff-Schedule-of-US-en.pdf>; “The Canada-U.S. Free Trade Agreement,” 59.

<sup>72</sup> “The Canada-U.S. Free Trade Agreement,” 169.

<sup>73</sup> *Ibid.*, 50.

<sup>74</sup> **Definition of Rules of Origin:** “The terms for the set of measures used to differentiate between goods originating in one country from those in another for the purpose of application of trade measures such as tariffs. Such rules are very important for countries which are members of a free-trade area to ensure that only goods originating in one or all of the member countries will receive preferential tariff treatment.” Steger, “A Concise Guide,” 8-10, 124.

addition to livestock and agriculture, or machinery produced with Canadian steel. Under the agreement, certain goods could classify as originating in Canada even if some of the materials used to produce them were from other countries, as long as the products changed enough in substance to satisfy the CUSFTA rules of origin. Any goods that did not satisfy the rules of origin requirements were still subject to tariff barriers – the agreement was intended to benefit Canada and US producers, not those of other countries. Both countries retained their own tariff and customs schedules for imports from other countries.

Article 301 stated that “goods originate in the territory of a Party if they are wholly obtained or produced in the territory of either Party or both Parties.”<sup>75</sup> This general provision distinguished between products that were either partly produced or in substance acquired from another country. Goods were not considered to originate in either country that had undergone simple packaging, had been diluted with water or anything that did “not materially alter the characteristics of the good,” or undergo any production that was used to purposely gain preferential treatment pursuant to 301.3.<sup>76</sup> The latter provision was designed to essentially limit blatant avoidances of rules of origin.<sup>77</sup> Specific rules of origin were included in Annex 301.2, which also defined rules in the “assembly” of goods. Assembled goods “originated” in a country if:

- a) the value of materials originating in the territory of either Party or both Parties used or consumed in the production of the goods plus the direct cost of assembling the goods in the territory of either Party or both Parties constitute not less than 50 percent of the value of the goods when exported to the territory of the other Party and
- b) the goods have not subsequent to assembly undergone processing of further assembly in a third country and they meet the requirements of Article 302.<sup>78</sup>

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<sup>75</sup> “The Canada-U.S. Free Trade Agreement,” 17.

<sup>76</sup> Ibid.

<sup>77</sup> Steger, “A Concise Guide,” 10.

<sup>78</sup> “The Canada-U.S. Free Trade Agreement,” 22.

This classification allowed for a relatively open definition of a product “assembled” in Canada.<sup>79</sup>

Both countries also reaffirmed their commitments to Article III of the GATT in Chapter 5, Articles 501 and 502. This ensured the commitment of both countries to regard imported goods with treatment no less favourable than treatment given to domestic goods in terms of taxation, laws, regulations and requirements.<sup>80</sup> This affirmed each country’s obligation to not impose restrictions less favourable to Canadian products exported to the US than American products.

Chapter 6 addressed so called “technical” *non-tariff* barriers to trade that could result in “highly protectionist trade measures” arising from health, safety, environment or national security product standards.<sup>81</sup> Both countries agreed to their obligations under the GATT to respect federal government measures so neither country would “maintain or introduce standards-related measures or procedures for product approval that would create unnecessary obstacles to trade.”<sup>82</sup> An “unnecessary obstacle” was not deemed to be a standard or procedure designed to achieve a legitimate domestic objective, and the standard imposed was not to be introduced solely to exclude the exports of a country. Article 604 dictated that each country should harmonize their product standards to gain product approval from the other, including recognition of product standards by private entities not governed by the federal government.<sup>83</sup> However, Chapter 6 only applied to federally-governed product standards and not to provincial or state measures. In the case of some Midwest US “hog states,” their objections to the importation of

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<sup>79</sup> The 50 percent rule was not applicable to apparel products. Apparel made from Canadian or American fabrics, not including those knitted or crocheted, qualified for tariff reductions, in addition to apparel made from “offshore” fabrics up to 50 million yards in non-woolen apparel from Canada and 6 million yards of woolen apparel from Canada in comparison to 10.5 and 1.1 million yards respectively from the US. Richard and Dearden, “The Canada-U.S. Free Trade Agreement,” 17. Canada thus retained a small advantage in this respect by being allowed to export a greater amount of apparel product made from offshore fabrics tariff-free and consequently meet economies of scale.

<sup>80</sup> “The General Agreement on Tariffs and Trade (GATT 1947),” 6-7.

<sup>81</sup> “The Canada-U.S. Free Trade Agreement,” 69.

<sup>82</sup> *Ibid*, 71.

<sup>83</sup> *Ibid*, 72.

Canadian hogs would not contradict the rules outlined in the CUSFTA because it was a state, not federal, matter. Technical standards at the provincial-state level still left open the possibility for potentially significant barriers.

Nonetheless, both countries agreed to exchange texts of any new proposed federal or smaller-scale government standards in enough time so that the other country could comment on them. This would allow them to adjust their practices, reducing the chance of missing bilateral trading opportunities. Although federal stipulations were only covered in the CUSFTA, a cordial system was developed on a best-efforts basis to make each country aware of any standards that might impose a barrier in advance, providing them with the opportunity to comment and to adjust accordingly.<sup>84</sup>

Chapter 13 of the CUSFTA dealt with non-tariff barriers relating directly to government procurement programs, or “Buy-National” programs.<sup>85</sup> Canada’s goal of *enhancing* its access to the American market included government procurement as one major in-road.<sup>86</sup> The procurement codes outlined in the agreement did not apply to the provincial or state level programs as the US *Buy America Act* continued to allow many state governments and certain federal agencies to restrain Canadian exporters from participating in the attainment of contracts. However, Canada made some modest gains in the US government market. First, the overall “threshold” of access to government procurement contracts was reduced from the GATT code restrictions of US\$171,000 to US\$25,000 pursuant to Article 1304. Any government procurement contracts were still subject to the principle of national treatment. The Government

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<sup>84</sup> Ibid, 72-73, 299.

<sup>85</sup> Definition of **Government Procurement**- “Purchases of goods by official government agencies. As a non-tariff barrier to trade, it refers to discriminatory purchases from domestic suppliers, even when imported goods are more competitive.” Steger, “A Concise Guide,” 114.

<sup>86</sup> DEA, “Canada-United States Trade Negotiations,” 3; Economic Council of Canada (ECOC), *Venturing Forth: An Assessment of the Canada-U.S. Free Trade Agreement* (Ottawa: Minister of Supply and Services, 1988): 5.

Procurement Code negotiated through the GATT Tokyo Round essentially worked towards ensuring that equal access to competition in government federal contracts and the equal awareness of contracts through pre-solicitation information without discrimination was achieved pursuant to Article 1301.<sup>87</sup> This was not a formal achievement, but rather a procedural affirmation of both countries' commitment to the GATT. The large reduction in the threshold was better than no reduction.

Though the reduced threshold translated into better access to the US market, Canada's gains were still limited. US government procurement in defence, transport, telecommunications, construction, advertising, and research and development remained closed to Canada pursuant to Annex 1304.3.<sup>88</sup> US Department of Defence contracts, which included billions of dollars on research and development, were a particular concern.<sup>89</sup> Some Department of Defence non-military purchases were allowed under the agreement, including contracts dealing with vehicles, engines, industrial components and information technology. One improvement for Canada's US procurement access were the new "Bid Challenge Procedures" outlined in Annex 1305.3. These procedures allowed for the "impartial" review of complaints (by parties that had no material interest in the outcome) where Canadian companies or industries felt they were discriminated against in the bidding for US government procurement contracts pursuant to Annex 1305.3.<sup>90</sup> The instituted Bid Challenge Procedures allowed for the impartial committee to recommend changes in each country's procurement procedures pursuant to 1305.3.g, and general procurement practices were to be monitored by each government through the exchange of information on domestic procurement statistics by various government agencies, departments

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<sup>87</sup> "The Canada-U.S. Free Trade Agreement," 179; Steger, "A Concise Guide," 39.

<sup>88</sup> "The Canada-U.S. Free Trade Agreement," 184-191. See US items covered under agreement. Department of Defence was not included.

<sup>89</sup> ECOC, *Venturing Forth*, 14.

<sup>90</sup> "The Canada-U.S. Free Trade Agreement," 192-193.



and products.<sup>91</sup> The enhancement of the GATT Government Procurement Code was a favourable step for Canada.

In select industries, specific trade liberalizing specifications were developed. Chapter 7 of the CUSFTA was devoted to agriculture, an important export industry for Canada that sold about \$3 billion of product into the US per year.<sup>92</sup> Article 701 disallowed export subsidies on products between Canada and the US. This was the first time that any two governments had agreed to ban export subsidies in agriculture and was a step toward liberalization. Articles 401 and 702 introduced phased-in tariff reduction of Category C (reductions over 10 years), and Article 704 exempted Canada from restrictions based on US meat import laws, which was significant for securing Canadian export access to American beef and veal markets. According to the DEA, Canadian exports in the past “found their exports limited as the U.S. triggered its meat import restrictions or sought voluntary export restraints.”<sup>93</sup>

Article 707 also helped secure Canadian access to the US agricultural market as it exempted it from future quantitative import quotas on products that contained 10 percent or less sugar. This overrode an existing GATT waiver that condoned restrictions if imports interfered with price support programs. Additionally, an effort was made pursuant to Article 708 to reduce regulatory barriers from product standards that especially caused export headaches for Canadian pork producers. Both countries sought to harmonize product standards in line with the so called “open border policy” which put forward the impetus to “establish equivalent accreditation procedures for inspection systems and inspectors.”<sup>94</sup> Defined broadly, the open border policy meant working to eliminate “technical regulations and standards that...would constitute, an

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<sup>91</sup> Steger, “A Concise Guide,” 40.

<sup>92</sup> “The Canada-U.S. Free Trade Agreement,” 75.

<sup>93</sup> Ibid, 76.

<sup>94</sup> Ibid, 86.

arbitrary, unjustifiable or disguised restriction on bilateral trade.”<sup>95</sup> The agricultural provisions qualified Canada’s secured access to the large US market.

For the most part, the chapters on energy and auto sectors (Chapters 9 and 10 respectively) *secured* existing tariff-free access to the US market. Canada’s energy exports to the US accounted for more than \$10 billion per annum, which included conventional oil and gas and other alternative sources of energy like uranium, and of course, electricity. Energy had been a contentious issue between Canada and the US, as Canada was subject to restrictions on uranium, and had been threatened with import fees on crude oil and electricity. Secured access to the US market was therefore a top priority for Canadian negotiators.<sup>96</sup> A US aversion to the Trudeau government’s National Energy Program kept the US cautious of Canadian energy practices in general. One important Canadian gain was the US exemption of Canada in its restrictions imposed by the *Atomic Energy Act* of 1954, which eliminated a long-standing threat against Canadian uranium exports.<sup>97</sup> Canadian uranium exports would therefore no longer have to be processed before being sold to the US.<sup>98</sup> The US also exempted Canada from its prohibition of Alaskan oil up to 50,000 barrels per day annually.<sup>99</sup>

The CUSFTA precluded the imposition of any new export tax, duty or charge unless the same tax, duty or charge was applied in domestic cases pursuant to Article 903. However, both countries retained the right to introduce any export or import restrictions allowed under the GATT, which included temporary prohibitions to reduce domestic shortages of a highly demanded product, conservation measures of resources as long as they also applied domestically, or restrictions needed to ensure essential supply of a product. Import or export restrictions due to

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<sup>95</sup> Ibid.

<sup>96</sup> Ibid, 141; Steger, “A Concise Guide,” 33.

<sup>97</sup> Steger, “A Concise Guide,” 35; “The Canada-U.S. Free Trade Agreement,” 149.

<sup>98</sup> ECOC, *Venturing Forth*, 13.

<sup>99</sup> “The Canada-U.S. Free Trade Agreement,” 86.

national security concerns were also sanctioned by Article 907. The US could therefore institute an import or export measure to ensure the supply of a military establishment, fulfill a defence contract, or to adequately deal with an armed conflict, and implement domestic policies or international arrangements that related to an attempt to stop the spread of nuclear weaponry.<sup>100</sup> Apart from these cases, Canada would generally enjoy tariff-free access to the US market based on the principle of national treatment, which secured an important export market. The uranium exemptions represented further enhanced access to the US market.

The auto sector was already liberalized by the 1965 Canada-US Auto Pact. Due to increasing competition and reduced productivity, however, the US threatened to launch a CVD against Canadian duty remission and incentive programs from which Canadian manufacturers largely benefited. The CUSFTA successfully preserved those programs. Thus, any manufacturers covered by the Auto Pact secured the preservation of those programs with the exception of European and Asian manufacturers with Canadian plants. Both countries also retained the right to contest existing duty remission programs if they had an injurious impact on a domestic firm.<sup>101</sup> Again, with that exception, access to the US market was achieved.<sup>102</sup> The threat of the abolishment of the Auto Pact manifested in the US Ottinger Bill was reduced by the agreement.

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<sup>100</sup> Ibid, 148.

<sup>101</sup> Ibid, 155-156; Steger, "A Concise Guide," 25-27.

<sup>102</sup> This footnote highlights other specific provisions outside of the regular elimination of tariffs. With respect to the CUSFTA on alcoholic beverages, a majority of the provisions dealt with changes required by Canadian producers. Canada enjoyed very liberal access to the US alcohol industry. See the DEA's synopsis: "The Canada-U.S. Free Trade Agreement," 135-136. In terms of the financial services industry, few barriers existed against Canadian financial companies. The provisions of the financial services chapter largely dictate changes on Canada's part. See Chapter 17. However, a particular advantage to Canada in terms of US market access to financial industries derived from Article 1702.3. This article ensured equal treatment of Canadian-controlled financial institutions in the US regarding any future amendments made to the *Glass-Steagall Act*. The principle of national treatment was also emphasized for Canadian-controlled banks in the US in their rights to establish or operate. In terms of the chapter on investment, most of the provisions applied to changes on the Canadian side. However, the principles of national treatment applied to Canada as well, and the chapter also secured Canada's exemption from any future restrictions on foreign investment that the US government would impose.

The CUSFTA was the first trade agreement to address trade in services. In Chapter 14, both countries agreed to apply the principle of national treatment with respect to many, but not all, services in each other's country pursuant to Article 1402. This did not mean harmonization, as each country remained free to choose whether or how to regulate services in their respective country (as long as regulatory standards were the same for any company, regardless of ownership). Moreover, no laws were required to change in either country. Canada and the US agreed not to make any new regulations more discriminatory and ensured that any new regulations conformed to the national treatment principle.<sup>103</sup> This represented a significant diversion in the liberalized trade agreement. It conceptually created the opportunity for Canada to secure its access to services within the US market with no difference in treatment to its firms than domestic firms.

Closely linked to liberalized services was Chapter 15's emphasis on the free temporary entry for business people. Some entrepreneurs "were experiencing delays and even outright denial of entry for what most considered normal business travel."<sup>104</sup> According to Canada's Department of External Affairs, some firms set up US subsidiaries or electronic companies simply to avoid the hassle. Chapter 15 instituted reciprocal Canada-US access in terms of business travel to allow for the more efficient conduct of business unhindered by business-immigration regulations. As long as Canadians met normal health and safety regulations and stated the nature of their business across the border, restrictions were liberalized pursuant to Article 1502. This facilitated access to the US market for Canadian business travelers, subject to Chapter 18 dispute settlement provisions if any traveler felt they were denied access to which

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<sup>103</sup> "The Canada-U.S. Free Trade Agreement," 197-200. The principle of National Treatment is outlined in Article III of the GATT: Treatment must be no less favourable to any contracting party regardless of country of origin, in terms of taxes, laws, or regulations. See Steger, "A Concise Guide," 120.

<sup>104</sup> "The Canada-U.S. Free Trade Agreement," 215.

they had the right (Article 1504). These provisions applied to a variety of services, which included, but was not limited to, accountants, engineers, lawyers, social workers, and sales representatives.<sup>105</sup>

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Canada's vision of an all-encompassing FTA with the United States was pursued to improve Canada's *long-term* economic viability and competitiveness. Its goal of achieving liberalized trade was accomplished by the full reduction of conventional tariffs. Secured access to the US market was reinforced by principles of national treatment and a basic commitment by both countries to ensure new trade legislation or practices were fully compatible with the CUSFTA's principles of promoting liberalized trade and rejecting protectionism. The "legislative watchdog" established by Article 1903 to make sure that existing US CVD and AD laws were not made more protectionist helped ensure this.<sup>106</sup> However, Canada's objective of attaining legally enshrined access to the US market and therefore immunity to US protectionism was not realized. Shared definitions of acceptable subsidization programs were not written into the original agreement and gains Canada would make from tariff-free access continued to be vulnerable to US anti-dump and countervail laws. CVDs and ADs remained the most damaging form of protectionism, often imposing higher duties than standard duties or tariffs. The 7-year timeframe for the US and Canada to create mutually agreeable countervail and anti-dump laws was a significant achievement in the *context* of the negotiations.<sup>107</sup> The NAFTA superseded this process and to this day no such "safe harbour" subsidy definitions exist. The dispute settlement mechanisms pursuant to Chapters 18 and 19 represented the crucial shift from US *unilateral*

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<sup>105</sup> Ibid, 220-228. Also see Chapter 15 Annexes.

<sup>106</sup> Steger, "Dispute Settlement," 183.

<sup>107</sup> As noted earlier, definitions on subsidies relevant to CVD and AD law were superseded by NAFTA regulations, which eventually did *not* provide definitions of acceptable or unacceptable subsidies.

interpretations and applications of its trade laws to *bilateral* interpretations and applications of trade laws with a Canadian voice in disputes. Though the dispute settlement mechanisms were open to criticism, they were a step in the right direction by reducing Canadian vulnerability to the unilateral application of procedural, legal or discreet forms of US protectionism.<sup>108</sup>

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<sup>108</sup> For fairly comprehensive outlines of Canada's experiences with US Trade Remedy law from 1985-2007, see the following documents: Department of Foreign Affairs and Mike Robertson, "U.S. Trade Remedy Law...1985-2000,"; The Department of Foreign Affairs (Canada) and Mike Robertson, *U.S. Trade Remedy Law, The Canadian Experience, 2000-2007* (Ottawa: Department of Foreign Affairs and International Trade, Trade Remedies Division, 2008).

## Conclusion

The Canadian pursuit of secured and enhanced access to the US market was a fundamental catalyst of the Canada-United States Free Trade Agreement. Canada sought a pact to reduce its vulnerability to US protectionism. The Mulroney government, in concordance with many in Canadian business, regarded increasingly protectionist US trade developments as both a threat and a reality. From the early 1980s to the signing of the historic agreement, Canadian products were increasingly subjected to trade remedies and investigations. The incessant Congressional attacks on the perceived “unfair” trading practices of its partners intensified due to the 1981-1982 recession, high unemployment and the ballooning trade deficits that followed – despite the eventual US macroeconomic recovery. Hundreds of new trade bills were introduced in Congress that sought restrictions on products from Canada, the Pacific Rim, the EEC and elsewhere. Restrictive bills did not discriminate, further demonstrating the strength of US protectionism. Although many bills containing restrictive provisions passed through the House and Senate, most were eventually rejected by Reagan, failing to become law. Nonetheless, Canadian commercial interests became anxious of the general trading environment with its most crucial market. FTA supporters deemed the volatile trading conditions a cause of disinvestment and argued that it reduced Canada’s global economic competitiveness. Success in the competitive US market ultimately meant success in world markets.

Many Canadians perceived 1980s US trade developments as a *limited* threat to Canada – a crucial point unacknowledged in the historiography. 80 percent of Canadian exports already entered the US market tariff-free, including Canada’s largest sectors of exports. Critics suggested that an agreement would only increase Canada’s exposure to American protectionist tendencies, not reduce it, as a result of greater American scrutiny of Canadian subsidization practices. Others

argued that Canadian industries which benefited from government subsidies would be severely damaged by an FTA. The burdens would not outweigh the net benefits of a pact. Some opponents acknowledged the apparent protectionist threat and deemed it an obvious reason to reject an agreement. Canada would be ever-tied to US political-economic whims and be potentially subjected to more trade restrictions during weak economic periods. The debate on the strength and potential influence of US protectionism was a contentious issue.

American media and government sources, unexamined in existing historiography, confirmed the general increase of Congressional protectionism throughout the 1980s. Some commentators believed that Reagan had abandoned his ideological and practical belief in free trade to quell the continuous pressure he faced from the House of Representatives to “solve” America’s trade problems. However, the sources reinforced an important distinction between *realized* trade restrictions, and their mere *threat*. The two Omnibus Trade Bills that eventually became law included less protectionist measures than originally proposed, as Reagan continuously reminded Congress that he would veto any bills that he deemed overtly protectionist. Many of the bills Reagan did sign explicitly sought restrictions on Japan and European countries, leaving Canada unmentioned. Nonetheless, the increased application of US trade remedy law in the 1980s ultimately threatened the security of access for Canadian exporters.

Despite strong Congressional protectionism, Washington continued to pursue liberalized trade through the 1985 United States-Israel FTA, and the CUSFTA, the largest bilateral trade agreement ever signed. Continuous US pressure to improve the global trading environment through multilateral negotiations was a fundamental tenet of US trade policy. Washington sought both liberalizing and protective pathways to improve its own global trade position and to limit



restrictions that reduced US competitiveness. The CUSFTA was not accepted by Congress at face value; many of its US critics pressed that Canadian exporters would have to become less subsidized in order to pass the 1988 CUSFTA Implementation Act. The American protectionist movement was not strong enough to avert the CUSFTA.

Canada's negotiating goal of securing, enhancing and legally enshrining its access to the US market was partially realized. Conventional tariffs were eliminated to zero over time. Nonetheless, any gains from tariff-free access ultimately remained vulnerable to the Chapter 18 and 19 dispute settlement mechanisms. The difficult task of defining mutually agreeable subsidization practices was not attained during the agreement, nor was it achieved with NAFTA. Nonetheless, Canada gained a significant presence in the dispute process not previously enjoyed. Future dispute rulings would no longer be subject to a single US trade institution. Instead, the newly formed Canada-United States Trade Commission would decide the outcome of each dispute. Although this system did not necessarily ensure greater fairness or objectivity, it was an improvement from the unilateral application of trade laws. The overall spirit of the agreement represented an attempt by both countries to adhere and reinforce principles of national treatment and to seek liberalizing resolutions to disputes.

In Don Campbell's view, Canada's presence in the bilateral dispute process was a major step forward precisely because it included Canada.<sup>1</sup> Although it did not shield Canada from protectionist US trade laws or irritants, Campbell asserted that "one of the greatest advantages of the Canada-US Free Trade Agreement is not contained in the text of the agreement at all."<sup>2</sup> The national controversy over the agreement caused an increased *awareness* about doing cross-

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<sup>1</sup> Don Campbell: Assistant Deputy Minister to the US (Department of External Affairs and International Trade), 1985-1988 and Senior Assistant Deputy Minister and Chief Trade Negotiator for the first phase of CUSFTA implementation (1989) and Deputy Minister of International Trade (1989-1993). Interviewed by Author, 20 July 2009.

<sup>2</sup> Don Campbell, Interviewed by Author, 20 July 2009.

border business in general. On a plane to the first “quiet” NAFTA meeting in late 1990, Campbell met a Canadian businessman on the flight who, prior to the agreement, had never sold any products in the US. Since the implementation of the agreement, his business had doubled in size with half of his orders being exported to the US. Although “there was nothing in the agreement itself that had changed his business,” the business owner had woken up to the possibility of trading in the US market because of all the attention placed on the agreement.<sup>3</sup> For Campbell, this change in perception became widespread throughout Canadian, American and Mexican business communities.

Since the conclusion of the CUSFTA, secured access to expanded markets has been pursued by Canada in tandem with an increasingly globalized trade environment. The 1994 NAFTA, which legally superseded the CUSFTA, reinforced Canada’s access to the American *and* Mexican markets. The importance of the CUSFTA should not be underestimated by the fact that it was replaced by the NAFTA. In hindsight, it is difficult to conceptualize the successful conclusion of the NAFTA without the first achieved bilateral agreement. The comprehensive nature of NAFTA and its dispute settlement mechanisms were based fundamentally on the principles and goals of the CUSFTA.

Canada has also concluded bilateral FTAs with Israel and Chile (1997), Costa Rica (2002), Columbia (2008), and the European Free Trade Association, Peru, and Jordan (2009). It has pending negotiations with many other countries. Although free access to as many possible markets is essential for Canadian export growth and stability, the vast majority of Canadian exports are sold to the US. Continued efforts to strengthen Canada-US trade relations to reduce barriers of all kinds should be a fundamental focus of Canadian trade policy. The presence of trade agreements certainly does not eliminate disputes over trade practices. The softwood lumber

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<sup>3</sup> Ibid.

issue, for example, has not been conclusively resolved since NAFTA. Continued positive relations are necessary to finding mutually agreeable solutions to disputes. In Canada's pursuit to expand its export markets, it must not ignore its most important market in the process.

The economic tsunami of 2008-2009 and the campaign of newly elected President Barack Obama again raised questions in Ottawa regarding the security of Canada's access to the American market.<sup>4</sup> US protectionism has re-emerged with "Buy America" provisions etched into Washington's \$787 billion Economic Recovery Plan, as Americans face high unemployment due to the recessionary global economy.<sup>5</sup>

Brian Mulroney sought a free trade agreement with the US "elephant" to strengthen and secure Canada's export access, *especially* during periods of economic uncertainty. With the recent economic volatility causing protectionist undertones, the importance of positive and active trade relations with the United States cannot be underestimated. Canada's long historical struggle to assure and improve its US market access should be remembered, as long as both countries continue to trade hundreds of billions in goods and services every year.

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<sup>4</sup> Campbell Clark and Rhéal Séguin, "Protectionism: Ottawa Pushes For New Chapter in Free Trade With U.S. To Get Around Buy American Provisions, PM Hopes to Bring Awarding of Local Contracts Under the Free-Trade Umbrella," *Globe and Mail*, 4 June 2009.

<sup>5</sup> Campbell Clark, "Spread of Buy American Provisions," *Globe and Mail*, 5 June 2009.

## Bibliography

- “A Fair Wind From Canada.” *Wall Street Journal*, 7 December 1983.
- Auerbach, Stuart. “New Congress Could Shy Away From Strongly Protectionist Bills.” *Washington Post*, 11 January 1987.
- Auerbach, Stuart. “President Cautions Hill on Trade.” *Washington Post*, 12 March 1988.
- Auerbach, Stuart. “President Toughens U.S. Trade Policy.” *Washington Post*, 24 September 1985.
- Auerbach, Stuart. “Protectionist Pressure Rises as Election Nears.” *Washington Post*, 16 September 1984.
- Auerbach, Stuart. “Senate Urges Reagan to Act Against Japan.” *Washington Post*, 29 March 1985.
- Auerbach, Stuart. “Strong Dollar Blamed for Trade Deficit.” *Washington Post*, 20 January 1985.
- Auerbach, Stuart. “Trade Bills Take Variety of Tacks.” *Washington Post*, 29 September 1985.
- Auerbach, Stuart. “Trade Legislation Put on Fast Track in House.” *Washington Post*, 28 February 1986.
- Auerbach, Stuart. “U.S.-Japan Trade Not Expected to Improve This Year.” *Washington Post*, 22 January 1983.
- “Avoiding a Trade War.” *Los Angeles Times*, 17 January 1983.
- “Axworthy Advises Caution.” *Winnipeg Free Press*, 20 November 1984.
- Baldwin, Robert E. *The Political Economy of U.S. Import Policy*. Cambridge: MIT Press, 1985.
- Barlow, Maude. *Parcel of Rogues: How Free Trade is Failing Canada*. Toronto: Key Porter Books, 1990.
- Baron, Martin. “Trade Barriers: U.S. Is No Saint – Many Nations Turn to Protectionism.” *Los Angeles Times*, 31 January 1983.
- Bayless, Alan and Marilyn Chase. “Revising Lumber Industry Wonders Which Way U.S. Will Go on Bid for Duty on Canadian Wood.” *Wall Street Journal*, 23 February 1983.
- Bentsen, Lloyd (Chairman). “United States-Canada Free Trade Agreement – 1988.” *Hearings Before the Senate Committee on Finance, 100<sup>th</sup> Congress, 12 and 13 April 1988*. Washington: U.S. Government Printing Office, 1988.

- Bentsen, Lloyd (Chairman). "United States-Canada Free Trade Agreement – 1988." *Hearing Before the Senate Committee on Finance, 100<sup>th</sup> Congress, 17 March 1988*. Washington: U.S. Government Printing Office, 1989.
- Bergsten, C. Fred and William R. Cline. "Trade Policy in the 1980s: An Overview." In *Trade Policy in the 1980s*, Edited by William R. Cline. Washington: Institute for International Economics, 1987: 59-98.
- Blake, Cassels and Graydon, Law Firm of. *An Analysis of the Dispute Settlement Provisions of the Canada-U.S. Free Trade Agreement Preliminary Transcript, Executive Summary, 4 November 1987*. Toronto: Ontario Legislative Assembly, 1987.
- Bovard, James. "Soaring Succor for Select Business." *Wall Street Journal*, 1 February 1984.
- Bovard, James. "The Paranoia of Protectionism." *Chicago Tribune*, 16 December 1983.
- Bowker, Marjorie Montgomery. *On Guard For Thee: An Independent Analysis, Based on the Actual Text of the Canada-U.S. Free Trade Agreement*. Quebec: Voyageur Publishing, 1988.
- Bradfield, Michael. *The Free Trade Claims: Smoke and Mirrors*. Ottawa: Canadian Centre for Policy Alternatives, 1988.
- Brewers Association of Canada. *Response to "How to Secure and Enhance Canadian Export Markets"*. Ottawa: Department of External Affairs, 1985.
- Burney, Derek H. *Getting It Done: A Memoir*. Montréal and Kingston: McGill-Queen's University Press, 2005.
- "Buying Off Protectionism." *Washington Post*, 14 September 1983.
- Cameron, Duncan, Stephen Carlson and Mel Watkins. "Market Access." In *The Free Trade Deal*, Edited by Duncan Cameron. Toronto: James Lorimer, 1988: 46-58.
- Campbell, Don. (Assistant Deputy Minister to the US: 1985-1988, Department of Foreign Affairs and International Trade). Interview Conducted by Author, 20 July 2009.
- Canada, Economic Council of. *Venturing Forth: An Assessment of the Canada-U.S. Free Trade Agreement*. Ottawa: Minister of Supply and Services, 1988.
- "Canada-United States Trade Negotiations: The Issues and the Process." In *Canadian Trade Negotiations: Introduction, Selected Documents, Further Reading*, Edited by the Department of External Affairs, Canada. Ottawa: External Affairs, 1985: 1-10.
- "Canada Walks Out." *Washington Post*, 25 September 1987.

- “Canadian Panel Urges Freer Trade With U.S.” *New York Times*, 7 September 1985.
- “Canadians Win Round on Lumber.” *New York Times*, 9 March 1983.
- “Canadian Trade Pact in Question.” *Washington Post*, 6 August 1987.
- Cannon, Lou. “Reagan Emphasizes Free-Trade Stance.” *Washington Post*, 1 September 1985.
- Carney, Patricia. *Trade Secrets: A Memoir*. Toronto: Key Porter Books, 2000.
- Carr, Shirley G.E. “Conservative Trade Policy: The Path That Must Be Taken.” In *Canada Not For Sale*, Edited by Tom Axworthy. Toronto: General Paperbacks, 1987: 13-17.
- Carvounis, Chris. *The United States Trade Deficit of the 1980s: Origins, Meanings, and Policy Responses*. New York: Quorum Books, 1987.
- Cheit, Earl. “Administration Takes Initiative on Trade Policy.” *Los Angeles Times*, 3 November 1985.
- “Clamor for Protection is on the Rise in U.S.” *Globe and Mail*, 13 June 1986.
- Clark, Campbell, and Rhéal Séguin. “Protectionism: Ottawa Pushes For New Chapter in Free Trade With U.S. To Get Around Buy American Provisions, PM Hopes to Bring Awarding of Local Contracts Under the Free-Trade Umbrella.” *Globe and Mail*, 4 June 2009.
- Clark, Campbell. “Spread of Buy American Provisions.” *Globe and Mail*, 5 June 2009.
- Clarkson, Stephen. *Canada and the Reagan Challenge*. Ottawa: Canadian Institute for Economic Policy, 1982.
- Clarkson, Stephen. “The Canada-United States Trade Commission: The Political Implications of CUSTER for Canada.” In *Trade-Offs on Free Trade: The Canada-U.S. Free Trade Agreement*, Edited by Marc Gold and David Leyton Brown. Toronto: Carswell, 1988: 160-167.
- Cohn, Martin. “U.S. Trade Deal Will Save Jobs, Mulroney Says.” *Toronto Star*, 27 September 1985.
- Conine, Ernest. “Protectionism: Sins and Sinners.” *Los Angeles Times*, 8 February 1982.
- Crane, David. “Canada’s Priority Must Shift to World-Wide Trade Concerns.” *Toronto Star*, 23 August 1986.
- Crane, David. “Free Trade is Not the Only Way to Ward Off U.S. Protectionism.” *Toronto Star*, 22 August 1987.

- Crane, David. "No Special Favours for Canada, U.S. Trade Official Warns." *Toronto Star*, 1 October 1985.
- Crispo, John. "Are Free Trade Foes Distorting Facts?" *Toronto Star*, 10 March 1986.
- Crispo, John (Ed). *Free Trade, the Real Story*. Toronto: Gage, 1988.
- "Critics Say Macdonald Report Caves in to Business." *Montreal Gazette*, 14 September 1985.
- Cruikshank, John. "'We Don't Want Trade War,' Bush Tells Canadian Hosts." *Globe and Mail*, 13 June 1986.
- d'Aquino, Thomas P. "Statement on Dispute Settlement and the Canada-United States Free Trade Agreement, 25 November 1987." Library and Archives Canada, MG31 E 112 Volume 3, File 5.
- "Declaration by the Prime Minister of Canada and the President of the United States of America Regarding Trade in Goods and Services, March 18 1986." In *Canadian Trade Negotiations: Introduction, Selected Documents, Further Reading*, Edited by the Department of External Affairs, Canada. Ottawa: External Affairs, 1985: 13-14.
- Delacourt, Susan and Christopher Waddell. "Conservative Majority; Voters Back Trade Deal." *Globe and Mail*, 22 November 1988.
- "Democrats and Trade Bills." *Washington Post*, 10 November 1986.
- Destler, I.M. *American Trade Politics: System Under Stress*. Washington: Institute for International Economics, 1986.
- Dewar, Helen. "Senate Passes Textile Import Curbs." *Washington Post*, 10 September 1988.
- Doern, G. Bruce and Brian Tomlin. *Faith and Fear: The Free Trade Story*. Toronto: Stoddart Publishing, 1991.
- Dolan, Maura. "The Times Poll – Nation Strongly Backs Restriction of Imports." *Los Angeles Times*, 29 September 1985.
- Doyle, Michael. "Look Beyond U.S. for Trade, Turner Says." *Montreal Gazette*, 1 October 1987.
- Drache, Daniel and Duncan Cameron. "Introduction." In *The Other Macdonald Report: The Consensus on Canada's Future That the Macdonald Commission Left Out*, Edited by Daniel Drache and Duncan Cameron. Toronto: James Lorimer, 1985: ix-xxxix.
- Dryden, Steven J. "Protectionist Pressures Predicted." *Washington Post*, 2 February 1984.

- Economic Policy, Canadian Institute for. "The Pitfalls of Free Trade." In *The Other Macdonald Report: The Consensus on Canada's Future That the Macdonald Commission Left Out*, Edited by Daniel Drache and Duncan Cameron. Toronto: James Lorimer, 1985: 129-135.
- "Emotions on Trade Hide Real Issues." *Washington Post*, 30 May 1982.
- "Expanding the Steel Cartel." *Washington Post*, 20 November 1982.
- External Affairs (Canada), Department of. *A Review of Canadian Trade Policy: A Background Document to Canadian Trade Policy for the 1980s*. Ottawa: Minister of Supply Services Canada, 1983.
- External Affairs (Canada), Department of. *Canada-U.S. Free Trade Agreement: Summary, Elaborations and Clarifications to the Elements of the Agreement as Reflected in the Legal Text of the Free Trade Agreement Between Canada and the United States of America*. Ottawa: Department of External Affairs, 1987.
- External Affairs (Canada), Department of. *Canadian Trade Policy for the 1980s: A Discussion Paper*. Ottawa: Minister of Supply Services Canada, 1983.
- External Affairs (Canada), Department of. "The Canada-U.S. Free Trade Agreement." [Accessed April 2009]. Available online at: <http://www.international.gc.ca/trade-agreements-accords-commerciaux/assets/pdfs/cusfta-e.pdf>
- External Affairs (Canada), Department of. "The Canada-U.S. Free Trade Agreement: Tariff Schedule of the United States." [Accessed April 2009]. Available online at <http://www.international.gc.ca/trade-agreements-accords-commerciaux/assets/pdfs/FTA-Tariff-Schedule-of-US-en.pdf>
- "Facts Sheet on Trade." In *Comprehensive Trade Legislation: Hearings Before the Committee on Ways and Means and Its Subcommittee on Trade, International Economic Policy Reform Act and Other Proposals, 100<sup>th</sup> Congress, First Session, February 5, 10, 18, 20, 26, 27*. Washington: U.S. Government Printing Office, 1987: 56.
- Farnsworth, Clyde H. "Effects Similar to Quotas." *New York Times*, 20 September 1984.
- Farnsworth, Clyde H. "How Congress Came to Love the Canada Free-Trade Bill." *New York Times*, 5 June 1988.
- Farnsworth, Clyde H. "Panel Asks Protection for Steel." *New York Times*, 13 June 1984.
- Farnsworth, Clyde H. "President Backed on Canada Talks." *New York Times*, 24 April 1986.
- Farnsworth, Clyde H. "Protectionism." *New York Times*, 14 February 1982.



- Farnsworth, Clyde H. "Tide of Protectionism in Congress." *New York Times*, 4 July 1985.
- Farnsworth, Clyde H. "Toughening Attitudes on World Trade." *New York Times*, 8 February 1981.
- Farnsworth, Clyde H. "U.S. Resentment Grows on Japan Trade Barriers." *New York Times*, 30 March 1987.
- Farnsworth, Clyde H. "Yearlong Decline of the Dollar Fails to Cut U.S. Trade Deficit." *New York Times*, 19 September 1986.
- Foreign Affairs (Canada), Department of and Mike Robertson. *U.S. Trade Remedy Law: The Canadian Experience, Second Edition, 1985-2000*. Ottawa: Department of Foreign Affairs and International Trade, Trade Remedies Division, 2002.
- Foreign Affairs (Canada), Department of and Mike Robertson. *U.S. Trade Remedy Law: The Canadian Experience, Second Edition, 2000-2007*. Ottawa: Department of Foreign Affairs and International Trade, Trade Remedies Division, 2008.
- Fraser, Graham. "PM, Reagan Would 'Halt Protectionism.'" *Globe and Mail*, 19 March 1985.
- "Free Trade – And Risk – With Canada." *Washington Post*, 24 August 1987.
- Fuerbringer, Jonathan. "Fear on Protectionism Softens Trade Bill Push." *New York Times*, 4 May 1987.
- Furlong, Keiran and Douglas Moggach. *The Political Economy of Free Trade: Sectors, Cycle, and the State*. Ottawa: Canadian Centre for Policy Alternatives, 1988.
- Gibbons, Sam (Chairman). "United States-Canada Free Trade Negotiations." *Of the Subcommittee on Trade of the Committee on Ways and Means*, 8 April 1986. Washington: U.S. Government Printing Office, 1986.
- Giplin, Kenneth. "U.S. Recession: Effect Abroad Muted." *New York Times*, 26 December 1981.
- Gotlieb, Allan. "The Politics of Protectionism in the U.S." In *Free Trade, Free Canada*, Edited by Earle Gray. Woodville: Canadian Speeches, 1988: 112-119.
- Gotlieb, Allan. *The Washington Diaries, 1981-1989*. Toronto: McClelland and Stewart, 2006.
- Granatstein, J.L. *Yankee Go Home? Canadians and Anti-Americanism*. Toronto: HarperCollins, 1996.
- Greenaway, Norma. "Trade Bill Pleases Embassy." *Winnipeg Free Press*, 12 October 1984.

- Greenberger, Robert S. "Mondale Promises AFL-CIO to Work For Its Programs." *Wall Street Journal*, 7 October 1983.
- Grey, Rodney de C. *United States Trade Policy Legislation: A Canadian View*. Montréal: Institute for Research on Public Policy, 1982.
- Gunton, Thomas. "Natural Resources and the Canada-U.S. Free Trade Agreement." In *Alternatives to the Free Trade Agreement*, Edited by Mel Watkins. Ottawa: Canadian Centre for Policy Alternative, 1988: 1-16.
- Hart, Michael. *A Canadian Perspective on the 1987 Canada-US Free Trade Agreement*. Ottawa: Centre for Trade Policy and Law, 1989.
- Hart, Michael. *A Trading Nation: Canadian Trade Policy From Colonialism to Globalization*. Vancouver: UBC Press, 2001.
- Hart, Michael, Bill Dymond and Colin Robertson. *Decision at Midnight: Inside the Canada-US Free-Trade Negotiations*. Vancouver: UBC Press, 1994.
- Hershey, Robert. "U.S. Trade Deficit Hits \$19.2 Billion, a Monthly Record." *New York Times*, 1 January 1987.
- Howard, John. "A Thinly Veiled Push for Protectionism." *New York Times*, 31 May 1987.
- Hufbauer, Gary C. and Howard F. Rosen. *Trade Policy for Troubled Industries*. Washington: Institute for International Economics, 1986.
- Hufbauer, Gary C. and Jeffrey J. Schott. *NAFTA: An Assessment*. Washington: Institute for International Economics, 1993.
- Hufbauer, Gary C., Diane T. Berliner and Kimberly Ann Elliot. *Trade Protection in the United States, 31 Case Studies*. Washington: Institute for International Economics, 1986.
- Hume, Ellen. "Reagan Vetoes Bill to Limit Textile Imports." *Wall Street Journal*, 29 September 1988.
- Hurtig, Mel. *The Betrayal of Canada*. Toronto: Stoddart Publishing, 1991.
- Jameson, Sam. "President Presses Japanese on Trade." *Los Angeles Times*, 19 January 1983.
- Johnson, William. "Canada Must Act on Free Trade, Macdonald Says." *Globe and Mail*, 19 November 1984.
- Johnson, William. "Canada-U.S. 'Special Ties' Resurface in Leaders' Talks." *Globe and Mail*, 27 September 1984.

- Johnson, William. "Operation Charm a Success, Mulroney Winds Up U.S. Visit." *Globe and Mail*, 23 June 1984.
- Johnson, William. "Protectionist Policies Harm Canadian Jobs, Mulroney Says in U.S." *Globe and Mail*, 21 June 1984.
- Kelleher, James F. and Department of External Affairs (Canada). *How to Secure and Enhance Canadian Access to Export Markets*. Ottawa: Canadian Government Publishing Centre, 1985.
- Kidd, Kenneth. "'No' to Free Trade Invites New Attack by Protectionists, Negotiator Warns." *Toronto Star*, 17 October 1988.
- Kilborn, Peter. "Key U.S. Role Seen in Furthering Trade." *New York Times*, 2 September 1985.
- Kilborn, Peter. "U.S. Puts 15% Tariff on Lumber." *New York Times*, 17 October 1986.
- King, John. "Ambassador Criticizes U.S. Trucking Restrictions." *Globe and Mail*, 2 October 1982.
- King, John. "Protectionist Bogeyman Making Strides." *Globe and Mail*, 23 December 1982.
- Kipling, Bogdan. "Canada is Chief Target of U.S. Protectionism." *Toronto Star*, 24 July 1986.
- Lachica, Eduardo. "Quick Remedies For Deficit Aren't Seen By Trade Official in Report To Congress." *Wall Street Journal*, 1 February 1984.
- Lachica, Eduardo. "Steel Leads Petitions for Import Curbs." *Wall Street Journal*, 9 May 1984.
- Laffer, Arthur B. "Limits on Trade Won't Spell Relief." *Los Angeles Times*, 11 January 1983.
- Lande, Stephen L. and Craig VanGrasstek. *The Trade and Tariff Act of 1984: Trade Policy in the Reagan Administration*. Lexington: D.C. Heath, 1986.
- Langley, Monica. "House Speaker Signals He Backs Effort to Put Forced Retaliation in Trade Bill." *Wall Street Journal*, 27 March 1987.
- Langley, Monica and Walter S. Mossberg. "Senate Approves Major Trade Measure by Vote of 85-11 and Sends it to Reagan." *Wall Street Journal*, 4 August 1988.
- Langley, Monica. "Rostenkowski Softens Terms of Trade Bill." *Wall Street Journal*, 11 March 1987.
- LaPierre, Laurier (Ed). *If You Love This Country: Facts and Feelings on Free Trade*. Toronto: McClelland and Stewart, 1987.

- Laxer, James. *Leap of Faith: Free Trade and the Future of Canada*. Edmonton: Hurtig Publishers, 1986.
- Lester, John and Tony Morehen. *Trade Barriers Between Canada and the United States*. Working Paper No. 88-3. Ottawa: Department of Finance, Economic Studies and Policy Analysis Division, 1988.
- Lewington, Jennifer. "Canadians Happy with U.S. Trade Bill." *Globe and Mail*, 11 October 1984.
- Lipsey, Richard. "The Economics of a Canada-American Free Trade Association." In *The Future on the Table: Canada and the Free Trade Issue*, Edited by Michael D. Henderson. North York: Masterpress, 1987: 35-53.
- Long, Russell B. and Abraham Ribicoff, "Conference on U.S. Competitiveness: Can the United States Remain Competitive?" *The Proceedings of the Conference on U.S. Competitiveness, April 1980*. Washington: U.S. Government Printing Office, 1980.
- Macdonald, Donald S. (Chairman). *Royal Commission on the Economic Union and Development Prospects for Canada, Volume One*. Ottawa: Minister of Supply Services Canada, 1985.
- Mace, Gordon. "Explaining Canada's Decision to Join the OAS: An Interpretation." In *Diplomatic Departures: The Conservative Era in Canadian Foreign Policy, 1984-1993*, Edited by Nelson Michaud and Kim Richard Nossal. Vancouver: UBC Press, 2001: 142-159.
- "Major Trade Bill Sent to President by Senate." *New York Times*, 4 August 1988.
- Martin, Douglas. "Canada Seeking Pact With U.S. On Freer Trade." *New York Times*, 27 September 1985.
- Martin, Douglas. "U.S.-Canadian Rift on Wood Exports." *New York Times*, 12 August 1985.
- Martin, Lawrence. *Pledge of Allegiance: The Americanization of Canada in the Mulroney Years*. Toronto: McClelland and Stewart, 1993.
- McArthur, Jack. "We're Keyed to U.S. Market Even Without Freer Trade." *Toronto Star*, 19 November 1985.
- Merry, Robert W. "Congressional Anger on Free Trade Could Lead to Some Major Changes." *Wall Street Journal*, 17 March 1983.
- Michaud, Nelson and Kim Richard Nossal. "Diplomatic Departures? Assessing the Conservative Era in Foreign Policy." In *Diplomatic Departures: The Conservative Era in Canadian*

- Foreign Policy, 1984-1993*, Edited by Nelson Michaud and Kim Richard Nossal. Vancouver: UBC Press, 2001: 290-295.
- Miller, Morris. "The Mulroney-Reagan Accord in a Global Perspective: The Question of Alternatives." In *Alternatives to the Free Trade Agreement*, Edited by Mel Watkins. Ottawa: Canadian Centre for Policy Alternatives, 1988: 1-13.
- Milner, Brian. "More Countervailing Actions Expected." *Globe and Mail*, 13 June 1986.
- Morton, Desmond. "Will the Current Debate on Free Trade be a Replay of 1911?" *Toronto Star*, 23 September 1985.
- Muirhead, Bruce. *Dancing Around the Elephant: Creating a Prosperous Canada in an Era of American Dominance, 1957-1973*. Toronto: University of Toronto Press, 2007.
- Mulroney, Brian. *Memoirs: 1939-1993*. Toronto: McClelland and Stewart, 2007.
- Mulroney, Brian. "Statement by Prime Minister Brian Mulroney on Canada-USA Trade Negotiations." In *Canadian Trade Negotiations: Introduction, Selected Documents, Further Reading*, Edited by the Department of External Affairs, Canada. Ottawa: External Affairs, 1985: 73-76.
- Murray, Alan. "Baldrige Urges Veto of House Trade Bill Even Without the Gephardt Amendment." *Wall Street Journal*, 5 May 1987.
- Newman, Peter C. *The Secret Mulroney Tapes: Unguarded Confessions of a Prime Minister*. Toronto: Random House Canada, 2005.
- "On Trade, A Happy Ending." *Washington Post*, 12 October 1984.
- Patterson, David Stewart. "Ottawa's Free Trade Envoy Vows Lean Team." *Globe and Mail*, 9 November 1985.
- Pine, Art. "Balancing Act: Protectionism Appeals to House and Senate but Faces Big Hurdles." *Wall Street Journal*, 31 July 1985.
- Pine, Art. "Battle of the Buck: To Avert a Trade War, U.S. Sets Major Push to Drive Down Dollar." *Wall Street Journal*, 23 September 1985.
- Pine, Art. "Can Reagan Resist Protectionist Forces?" *Wall Street Journal*, 30 July 1984.
- Pine, Art. "Heading Into An Economic Box." *Wall Street Journal*, 16 June 1986.
- Pine, Art. "New Trade Representative Aims to Build a More Aggressive Strategy for the U.S." *Wall Street Journal*, 9 July 1985.

- Pine, Art. "Rapidly Rising Dollar, Big Trade Deficit Stir More Pleas For Help." *Wall Street Journal*, 12 February 1985.
- Pine, Art. "U.S. Mulling Tougher Trade Policy." *Wall Street Journal*, 17 February 1983.
- "Porker Protectionism." *Wall Street Journal*, 28 May 1985.
- "Protection for Machine Tools." *Washington Post*, 26 November 1986.
- "Protests, Celebrations Mark Signing of Free-Trade Deal." *Montreal Gazette*, 4 January 1988.
- Quinn, John J. "A Critical Perspective on Dispute Settlement." In *Trade-Offs on Free Trade: The Canada-U.S. Free Trade Agreement*, Edited by Marc Gold and David Leyton Brown. Toronto: Carswell, 1988: 188-196.
- Quinn, Kevin. "'Buy U.S.' Shift In Gas-Tax Act Upsets Canada." *Wall Street Journal*, 10 March 1983.
- Reagan, Ronald. *An American Life*. New York: Simon and Schuster, 1990.
- Reagan, Ronald. "Letter to the Honourable Bob Packwood, 24 April 1986." In *The Free Trade Papers*, Edited by Duncan Cameron. Toronto: James Lorimer, 1986: 44-45.
- Reagan, Ronald. "Message to the Congress Transmitting the Annual Economic Report of the President." 2 February 1983. *Public Papers of Ronald Reagan*. [Accessed April 2009]. Available online at: <http://www.reagan.utexas.edu/archives/speeches/1983/20283a.htm>
- Reagan, Ronald. "Message to the House of Representatives Returning Without Approval of the Omnibus Trade and Competitiveness Act of 1988." 24 May 1988. *Public Papers of Ronald Reagan* [Accessed April 2009], Available online at: <http://www.reagan.utexas.edu/archives/speeches/1988/052488c.htm>
- Reagan, Ronald. "Proclamation 4929-- World Trade Week." 5 April 1982. *Public Papers of Ronald Reagan*. [Accessed April 2009]. Available online at: <http://www.reagan.utexas.edu/archives/speeches/1982/40582g.htm>
- Reagan, Ronald. "Proclamation 5160-- World Trade Week." 15 March 1984. *Public Papers of Ronald Reagan*. [Accessed April 2009]. Available online at: <http://www.reagan.utexas.edu/archives/speeches/1984/31584c.htm>
- Reagan, Ronald. "Radio Address to the Nation on International Trade." 6 August 1983. *Public Papers of Ronald Reagan*. [Accessed April 2009]. Available online at: <http://www.reagan.utexas.edu/archives/speeches/1983/80683a.htm>

- Reagan, Ronald. "Radio Address to the Nation on the United States-Canada Free Trade Agreement." 9 January 1988. *Public Papers of Ronald Reagan*. [Accessed April 2009]. Available online at: <http://www.reagan.utexas.edu/archives/speeches/1988/010988a.htm>
- Reagan, Ronald. "Statement on House of Representatives Action on the International Trade Bill." 29 April 1987. *Public Papers of Ronald Reagan*. [Accessed April 2009]. Available online at: <http://www.reagan.utexas.edu/archives/speeches/1987/042987b.htm>
- Reagan, Ronald. "Statement on the International Trade Bill." 21 July 1987. *Public Papers of Ronald Reagan*. [Accessed April 2009]. Available online at: <http://www.reagan.utexas.edu/archives/speeches/1987/072187d.htm>
- Reagan, Ronald. *The Reagan Diaries*. Edited by Douglas Brinkley. New York: HarperCollins, 2007.
- "Reagan Vetoes Bill to Limit Textile Imports." *Wall Street Journal*, 29 September 1988.
- "Reagan Vows to Veto House Trade Bill." *Washington Post*, 30 May 1986.
- "Reagan Vows to Veto Protectionist Measure and Guard Free Trade." *Globe and Mail*, 30 May 1986.
- Redburn, Tom. "60% in U.S. Back Tariff Against Japanese Goods." *Los Angeles Times*, 22 May 1983.
- Regan, Gerald. *Economic Nationalism: An Address by the Honourable Gerald Regan, Minister of State (International Trade), to the Bankers' Association for Foreign Trade, San Juan, Puerto Rick, April 13, 1983*. Ottawa: Department of External Affairs, 1983.
- Reisman, Simon. "Canadian Trade at the Crossroads: Options for New International Agreements, Trade Policy Options in Perspective: Address to Ontario Economic Council, 16 and 17 April 1985." Library and Archives Canada, MG 31 E 112 Volume 4, File 14.
- Reisman, Simon. "Trade Negotiations – Canada's Two Track Approach: Address to University of Toronto, Faculty of Management, 29 January 1988." Library and Archives Canada, MG31 E 112 Volume 4, File 23.
- Richard, John D., and Richard Dearden. *The Canada-U.S. Free Trade Agreement: Final Text and Analysis*. Toronto: CCH Canadian, 1988.
- Rosenblatt, Robert. "U.S. Sharply Raises Tariff on European Pasta." *Los Angeles Times*, 1 November 1985.
- Rostenkowski, Dan (Chairman). "Problems of the U.S. Steel Industry." *Hearings Before the Subcommittee on Trade of the Committee on Ways and Means, 99<sup>th</sup> Congress, April-August 1984*. Washington: U.S. Government Printing Office, 1985.

- Rostenkowski, Dan (Chairman). "Trade and International Economic Policy Reform Act and Other Proposals." *Hearings Before the Committee on Ways and Means and Its Subcommittee on Trade, 100<sup>th</sup> Congress, February 5-20, 1987*. Washington: U.S. Government Printing Office, 1987.
- Rowen, Hobart. "Trade, Protectionism Now Election Issues." *Washington Post*, 18 March 1984.
- Rowley, Storer and Bill Neikirk. "Reagan Aides Oppose Steel Quotas." *Chicago Tribune*, 7 September 1984.
- Shribman, David and Art Pine. "Canada's Quick Retaliation for Shingles Tariff Prompts Some on the Hill to Rethink Protectionism." *Wall Street Journal*, 19 June 1986.
- Silk, Leonard. "Economic Scene: Free Traders' Defeat on Cars." *New York Times*, 6 May 1981.
- Smith, David. "Negotiator Takes Shots at NDP." *Vancouver Sun*, 5 March 1988.
- Speakes, Larry. "Statement by Principal Deputy Press Secretary Speakes on House of Representatives Approval of Omnibus Trade Bill." 22 May 1986. *Public Papers of Ronald Reagan*. [Accessed April 2009]. Available online at: <http://www.reagan.utexas.edu/archives/speeches/1986/52286g.htm>
- "Steel and Subsidies." *Washington Post*, 13 June 1982.
- Steger, Debra P. *A Concise Guide to the Canada-United States Free Trade Agreement*. Toronto: Carswell, 1988.
- Steger, Debra P. "Dispute Settlement." In *Trade-Offs on Free Trade: The Canada-U.S. Free Trade Agreement*, Edited by Marc Gold and David Leyton Brown. Toronto: Carswell, 1988: 182-187.
- Stoler, Peter. "Canada at the Shamrock Summit." *TIME*, 1 April 1985.
- "Stumped on Stumpage." *Los Angeles Times*, 9 August 1985.
- Sugawara, Sandra. "Shoe Soles Lead Protectionist March." *Washington Post*, 24 September 1985.
- "The General Agreement on Tariffs and Trade (GATT 1947)." [Accessed April 2009]. Available online at: <http://www.worldtradelaw.net/uragreements/gatt.pdf>
- "The U.S. vs. Everyone." *Wall Street Journal*, 4 October 1984.
- Thibault, J. Laurent, Charles Hantho and Barbara Caldwell. "Manufacturers Itch to Compete For U.S. Sales." In *Free Trade, Free Canada*, Edited by Earle Gray. Woodville: Canadian Speeches, 1988: 34-38.



- “Timetable for Trade Bills Criticized.” *Washington Post*, 11 February 1987.
- Tomlin, Brian. “Leaving the Past Behind: The Free Trade Initiative Assessed.” In *Diplomatic Departures: The Conservative Era in Canadian Foreign Policy, 1984-1993*, Edited by Nelson Michaud and Kim Richard Nossal. Vancouver: UBC Press, 2001: 45-58.
- “Trade Deficit \$30 Billion – 3<sup>rd</sup> Quarter is Near Record.” *Chicago Tribune*, 18 December 1985.
- “Trade Is Aid.” *Wall Street Journal*, 31 January 1984.
- “Trade Panic at the White House.” *Washington Post*, 29 May 1986.
- “Trade Shocks, Protectionist Fevers.” *New York Times*, 28 March 1987.
- “Trade With World – 1987.” US Census Bureau, Foreign Trade Division. [Accessed April 2009]. Available online at: <http://www.census.gov/foreigntrade/balance/c0015.html#1987>
- “U.S., Canada Settle Dispute Over Lumber.” *Washington Post*, 1 January 1987.
- U.S. International Trade Commission. *Operation of the Trade Agreements Program*. 36<sup>th</sup> Annual Report, USITC Publication 1725, July 1985.
- “U.S. House Passes Bill to Hold Down Imports.” *Globe and Mail*, 23 May 1986.
- “U.S. Rejects Lumber Charge.” *New York Times*, 25 May 1983.
- “U.S. Trade Actions Vs. Canadian Foods.” *Globe and Mail*, 13 June 1986.
- “U.S. Trade Deficit Soars.” *Chicago Tribune*, 1 January 1986.
- Waddell, Christopher. “Commons Sends Free-Trade Legislation to Senate.” *Globe and Mail*, 1 September 1988.
- Waddell, Christopher and Jennifer Lewington. “Canada Breaks Off Free Trade Talks.” *Globe and Mail*, 24 September 1987.
- Waddell, Christopher. “Letter Says U.S. to Control Terms of Lumber Deal.” *Globe and Mail*, 1 January 1987.
- Weinraub, Bernard. “Reagan Rejects Shoe Import Curb.” *New York Times*, 29 August 1985.
- Weinraub, Bernard. “Reagan Tells Congress to Shun Protectionism.” *New York Times*, 6 September 1987.
- Weinraub, Bernard. “Reagan Threatens to Veto Any Move to Limit Imports.” *New York Times*, 1 September 1985.

- White, Randall. *Fur Trade to Free Trade: Putting the Canada-U.S. Trade Agreement in Historical Perspective*. Toronto: Dundurn Press, 1989.
- “Who’s For Free Trade?” *Washington Post*, 23 November 1982.
- Wills, Terrance. “PM Moves Fast on Economic Ties With U.S.” *Montreal Gazette*, 19 September 1984.
- Wills, Terrance. “U.S. Tariff Blow Appalling, PM Says.” *Montreal Gazette*, 24 May 1986.  
“Winds of Protectionism.” *Chicago Tribune*, 24 April 1983.
- Winham, Gilbert R. and David R. Black. *Regional and Provincial Impacts of Canada-U.S. Free Trade*. Halifax: Department of Political Science, Dalhousie University, 1985.
- Wonnacott, Paul. “The Canada-U.S. Free Trade Agreement: The Issue of Assured Access.” In *Building a Partnership: The Canada-United States Free Trade Agreement*, Edited by Mordechai Kreinen. East Lansing: Michigan State University Press, 2000: 65-79.
- Wren, Christopher. “Mulroney ‘Furious’ at Reagan Approval of Lumber Tariffs.” *New York Times*, 24 May 1986.