NAFTA-ization:
Regionalization and domestic political adjustment in the
North American economic area

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Abstract
Europeanization is an example of initial bargains between states leading to ongoing
political adjustment within the states. It is a specific and narrow example of
Gourevitch’s second image reversed. In this paper I apply the concept to NAFTA and
look at two of its member states, finding that despite the low level of
institutionalization, NAFTA has begun a process of domestic political adjustment. It
has set in motion new forms of political organization or behaviour, and new demands
for political action. This is especially marked in Mexico, and in certain sectors. It is
also clearly visible in the changing patterns of cross-border bureaucratic
communication and civil society organization and activity. It is worth investigating
this phenomenon more widely. How can we generalize over the universe of
international agreements, in terms of their affects on domestic politics? Is there a
pattern to the pace and nature of domestic adjustment? What mediates or influences
this adjustment?
One of the trends most celebrated by scholars in recent years is the growth in regional agreements. According to the World Trade Organization (WTO) roughly 250 regional trade agreements were notified up to December 2002, 130 of these after January 1995. The WTO estimates that over 170 agreements are in force, with another 70 estimated to be operational although not yet notified.¹ What has become known as the ‘new regionalism’ literature asks why this has occurred and also what makes the new regionalism different from the old (Hettne, 2003; Laursen, 2003; Fawcett, 2004). According to Fawcett (2004), what marks out the new regionalism is that it is partly the result of the disintegration of the Cold War and the dissolution of the international system into a more decentralized system, as well as fears about the new globalization of the system. Regions may include both state-based and non-state-based regions. They may be bound by formal organizations, or by identity, with varying levels of permanence. They may be problem-solving, or spontaneous assertions of commonality (on the human security aspects of new regionalism see Grant and Soderbaum, 2003). Tavares (2004) categorizes regionalisms historically – military, 19ᵗʰ century, post-WWI, post-WWII, and new regionalism.²

These scholars have spent more time comparing ‘then versus now regionalism’ and less time comparing ‘here versus there regionalism’.³ Indeed it can be difficult to see how regions can be compared, given their very different histories, memberships, objectives and other features. NAFTA is the result of negotiations between the US, Canada and Mexico which began in June, 1991 and culminated in August, 1992.⁴ The agreement was signed in December, 1992, though under the new Clinton Administration the member states negotiated supplementary ‘side agreements’ the following year. These negotiations were concluded in August, 1993 and signed the following month. Numerous studies have examined the effects of NAFTA from an economic or social perspective (for example, the contributors to Middlebrook and

² Hurrell (1995a) also endeavors to parse the meaning of regionalism and theorize its significance.
³ There are some examples of EU-NAFTA comparison - Clarkson, 2000; Pastor, 2005.
⁴ On the origins of NAFTA, see Hurrell, 1995b.
Zepeda, 2003; Wayne, 2004). Official data make it clear that NAFTA has brought impressive growth in trade, investment and movement of people.\(^5\)

Undertaking regional comparison would revive a literature extending back at least to the 1950s. Karl Deutsch and colleagues (1957) looked at conditions necessary to attain the status of security community, examining levels of transactions in particular. Haas (1961) looked at the creation of political communities, in which states sought to upgrade the common interest, shifting loyalties and expectations toward the center, and creating new supranational competences. What he calls ‘background’ or environmental factors – such as pluralist social structure, economic and industrial development and ideological similarities – are necessary for states to find common ground and build upon it.\(^6\) In no region apart from Europe were conditions propitious (in 1961) for political community. Regional comparison would also address the concern of many Europeanists about the ‘\(N=1\) problem’, namely the apparent *sui generis* nature of the EU (Caporaso et al, 1997).

The rest of this paper applies a concept developed in the context of European integration (Europeanization) to NAFTA. It asks whether domestic politics in the US and Mexico have been ‘NAFTA-ized’.\(^7\) It summarizes the concept of Europeanization, suggests ways to apply this to NAFTA, and conducts an initial (abbreviated) probe to determine how valid the approach might be. It represents an extension of a widely used concept in the EU, rather than a direct comparison. It asks whether policy, institutional, and socialization changes are appearing in the politics of the member states after more than 10 years of NAFTA, as they have done with the EU, and if not, what the constraints may be.

Regional integration is not necessarily more influential on domestic politics than global integration (through the WTO for example). However, several factors could

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\(^5\) The US State Department’s data on the extent of economic change are available in Wayne, 2004. Much of the debate is about these changes (Burfisher et al, 2001; Pastor, 2005; Polaski, 2003; McKinney, 2005; Weintraub, 2005; Public Citizen, 2006), including the benefits and costs of higher levels of trade and investment, widening income disparities, increasing unauthorized migration, environmental damage and rural poverty.

\(^6\) Supranational institutions and choosing specific economic tasks also contribute to maximizing the potential for upgrading the common interest.

\(^7\) Mexico and the US are chosen because it is assumed they are the most extreme cases, with Mexico requiring greatest adjustment and the US least adjustment.
lead to greater levels of commitment and adjustment – including the presence of a regional identity, higher levels of social and economic interaction, and fewer actors. Fewer actors means that there is less likelihood of divergent preferences, and greater possibilities for overcoming problems of monitoring, distribution of gains and enforcement (for a discussion of these issues see Haggard, 1997; Mansfield and Milner, 1997). Studying the effect of regional integration on domestic politics in a comparative way carries will help determine the generalizability of the Europeanization approach.

At the same time it is critical to isolate regional effects from other potential effects, such as independent domestic political decisions, regime change, economic crises, bilateral negotiations external to NAFTA, or change resulting from membership of the GATT/WTO. Not all political adjustment can reasonably be attributed to NAFTA, and in some cases it is difficult to parse the relative impacts of NAFTA, GATT/WTO and internal political reform on subsequent political adjustment. In fact, NAFTA may be one element of a broad domestic political strategy responding to both domestic and external crises or events. Still, it is worth trying to isolate a NAFTA effect and determine how relevant and important this is to domestic political change.

Europeanization and NAFTA-ization
An influential 1978 article by Peter Gourevitch explored the impact of the international upon domestic politics, the so-called ‘second image reversed’ (Gourevitch, 1978). Gourevitch was concerned with how ‘war and trade’ affected ‘the character of domestic regimes’ (1978: 883, 882). He was also concerned with how domestic structure matters to political outcomes. His focus was more with events than with institutionalized cooperation, though he certainly did not rule out the potential influence of international organizations on domestic politics. This essay uses his ‘second image reversed’ as a metaphorical jumping off place. It assumes that a set of internal or external causes may induce states to enter into a formal agreement by which their economic relations are institutionalized. This agreement then serves as a ‘permanent’ external constraint on domestic behavior - forcing, encouraging, or rewarding behavioral adjustment. The international influence is neither one-off nor

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Clarkson (2002) examines the influence of NAFTA, the WTO and internal Mexican politics on its economic transformation after the mid-1980s.
involuntary, and the effect may be longer-lasting than Gourevitch’s work presumed. In fact there is likely to be an iterative, circular influence of domestic demand - international cooperation - domestic adjustment - domestic demand, of the kind studied in the European Union.

Europeanization refers to the reciprocal influence of European integration and the domestic politics of its member states. It is usually conceived in top-down terms: as the EU forms new policies and institutions, member states are faced with adjustment pressures. Domestic politics has long served as an explanatory factor in accounts of the integration process, but only recently has itself been viewed as a dependent variable. As several scholars pointed out, ‘much of the literature on European integration...treats the process of integration as the end point of a causal process beginning with domestic and transnational societal interests and ending with European outcomes...’ (Cowles et al, 2001: 12). Europeanization is also conceived in bottom-up terms, though less frequently (Cowles et al, 2001). Here the emphasis is on how member states seek to influence EU policy and institutional change. Governments prefer their own policy paradigms to be the ones adopted at European level (once they accept the need for EU-level solutions), because this minimizes the cost of adjustment and disruption domestically. They make an effort, therefore, to ‘upload’ domestic approaches to the EU (Borzel, 2002; Jordan, 2003).

Nonetheless, Europeanization in current literature normally refers to domestic transformation under pressure from European level institutional and policy change (Ladrech, 1994 is often cited as an original definition; for a wider set of definitions see Olsen 2002; Ladrech, 2002). For Olsen, domestic change is only one of several possible conceptions of Europeanization. At the domestic level, Europeanization is about ‘adapting national and subnational systems of governance to a European political center and European-wide norms’ (2002: 924). His definition of Europeanization in this context is a ‘change in core domestic institutions of

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9 Hix and Goetz, 2000; Börzel and Risse, 2000; Knill and Lehmkühl, 1999; for one of the earliest efforts to assess the impact of integration on domestic political institutions and policies, see Mény, Muller and Querméme, 1996. For a review of the literature, see Vink, 2003; Radaelli, 2000. However, though great strides have been made, efforts to assess the relationship between European integration and domestic political change in the member states are still in their infancy. Markus Haverland notes that ‘the shaping forces and dynamics of national adaptation to European legislation are still poorly understood’ (2000: 84).
governance and politics, understood as a consequence of the development of European-level institutions, identities, and policies’ (2002: 932).

Olsen applies the concepts of experiential learning and competitive selection to Europeanization. Taking an institutional perspective, he ‘highlights the significance of existing structures, histories, and dynamics for understanding political transformations’ (2002: 925). He focuses on the resistance (or lack of it) of the institutions and policies that are being asked to transform, and concludes that ‘European signals are interpreted and modified through domestic traditions, institutions, identities, and resources in ways that limit the degree of convergence and harmonization’ (2002: 936). Resistance to Europeanization occurs because of a misfit between European and domestic structures, high adjustment costs, political uncertainty, among other reasons (Cowles et al 2001, 6-9; Knill, 2001). Much of the Europeanization literature posits that domestic institutions are less susceptible to Europeanization than domestic policies. Policies can be changed easily, but institutions – especially the core executive comprising central administration and the government – are resistant to transformation (among others see Knill, 2001; for a review see Goetz, 2000).10

NAFTA-ization applies this concept to the NAFTA member states. It is about political change, not about social or economic change (such as growth in migration or trade). The underlying hypothesis is that regional agreements between states set in motion a process of domestic political adjustment, which is likely to vary according to the nature of the agreement.11 I test the hypothesis by examining whether NAFTA has set in motion new forms of political organization or behaviour, or new demands for political action. These might include 1) new domestic institutions, such as ministries, parliamentary committees, working groups, or advisory panels; 2) new standards or norms beyond those specifically enumerated in the NAFTA text; 3) new forms of

10 Knill did not look at the eastern and central European states and their experience of adjustment prior to accession, which would have given a different picture, cf Grabbe 2001. So with NAFTA: a senior State Department official claimed that one of the major benefits of NAFTA was its potential to bring about significant change in developing countries. NAFTA and other ‘state-of-the-art trade agreements include provisions on transparency, anti-corruption, labor rights, environmental protection, financial services, government procurement, investor protections, dispute settlement, intellectual property’ (Wayne, 2004).

11 A reasonable Null hypothesis is that there will be no domestic adaptation, since NAFTA is underinstitutionalized in comparison to the EU and has no supranational element to it.
cross-border interaction between public officials; 4) new mechanisms of coordinating policy between the member states governments; 5) a change in the public engagement/advisory process; 6) new public expectations; 7) new policy processes; 8) new civil society groups and/or new cross-border links; 9) the emergence of new pressures to deepen the institutions and policies of NAFTA. I am also interested in whether NAFTA has a differential impact between the member states given the asymmetry in their levels of development and size, and how it varies depending on sector or region.

Exactly how does NAFTA require, encourage or create incentives for change, and is that to domestic institutions, policies, domestic norms of governance or to civil society groups? It may be change that is intended or unintended, even unwelcome. I am interested in the ways member states attempt to advocate new common obligations (bilateral or trilateral) and try to ‘upload preferences’ in order to minimize their subsequent adjustment costs (Borzel, 2002). I am interested in the factors mediating change, causing resistance, enabling, or otherwise intervening in the process of domestic adjustment. These may include domestic traditions, institutions, identities, and resources (Olsen, 2002). They may also include economic vulnerability, political institutional capacity, policy legacies, policy preferences, discourse (Schmidt, 2002).

**Legal sources of NAFTA-ization**

NAFTA is a very detailed and precise agreement, containing 22 chapters and numerous annexes establishing the obligations of member states. It refers to the internal legislation of member states and its coverage extends to internal ‘terms of trade’ obligations, such as sanitary and phytosanitary (SPS) measures and intellectual property rights. Abbott (2000: 537) points out: ‘NAFTA would appear capable of being given direct effect in national law, at least in substantial part, except where direct effect has been expressly precluded.’ However, the US Congress, in approving the Treaty, disallowed the possibility that NAFTA requirements would override US law, and established that any action against NAFTA would have to be taken against the implementing legislation of NAFTA, rather than the agreement itself (Abbott, 2000: 538).12

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12 NAFTA does have direct effect in Mexico, however.
NAFTA creates strong pressure to harmonize tariffs, update rules of origin and harmonize other standards in order to promote trade (Wayne, 2004; Baker interview). This pressure occurs through the committee on standards-related measures and through sectoral subcommittees. In some cases committees and working groups have agreed on harmonization measures. Clarkson claims that NAFTA may generate ‘supranational’ regulations – citing an example where a working group agrees to a common standard for cross-border transport of dangerous chemicals which the member states ‘have agreed in advance to accept’ (2002: 7) and suggests that ‘there are weak signs of a continental polity emerging. The negotiation of … standards in NAFTA working groups shows some autonomous normative capacity, and the harmonization of customs procedures to handle rules of origin and other cross-border matters suggests some miniscule supranational heartbeat’ (2002: 46). There is a norm among public officials of the need to move toward similar practices. Both norms and institutional requirements serve as mechanisms of NAFTA-ization of legal regimes.

Legal changes were required in all three member states as a result of NAFTA. Chapter 19, Annex 1904.15, contains a schedule of changes required in order to implement the dispute settlement procedures in antidumping and countervailing duty issues. The US made both legal and administrative changes. Congressional committees reporting on the implementing legislation for NAFTA commented on numerous aspects of these. The Senate Finance Committee Report listed 43 changes to US law that were required under NAFTA, though there was no supranational effect to these legal changes: they were made through the normal legislative process. Also, the House Ways and Means Committee made it clear that US law is superior to the NAFTA agreement, though it also stated that the NAFTA agreement is superior to state and local law which conflicts with it. The executive branch also submitted its required statement of administrative action, detailing administrative changes that would be made under NAFTA.

Mexico and Canada likewise made legal and administrative changes resulting from NAFTA. However, Mexican adjustment was more profound. Clarkson (2002) describes NAFTA-induced changes in Mexican policy on telecommunications, intellectual property rights, automotive sector, competition, monetary policy, inward investment, and others. For example, legislative changes were made to allow more liberalization in the auto sector. All three member states created uniform regulations ‘regarding the interpretation, application and administration of the rules of origin that they would then entrench in each system of national law … NAFTA caused a direct change to the legal and administrative orders affecting auto manufacturing.’ (2002: 31-2). Mexico agreed to phase out its 'auto decrees’, which included restrictions on imports and foreign ownership of auto producers, as well as domestic content requirements (Burfisher et al, 2001: 136). Likewise, in a 1992 law on anti-trust, Mexico created the Comisión Federal de Competencia. The approaches to property rights, land ownership and the legal framework on competition and corruption all were transformed, according to one observer (Lopez-Guerra interview), although it is important not to conflate legal change with change in behavior (cf Clarkson, 2002: 41).

Legal pressures resulted in changes to the trade regime too: ‘since Mexico did not have laws on anti-dumping or countervailing duties, it agreed to import holus-bolus a complete legal microstructure – and on the Canadian-US common law model – in order for it then to be enforced’ (2002: 14). Mexico amended its Foreign Trade Law regarding administrative procedures, and made adjustments to allow access to information and widen participation in dispute settlement (2002: 15). It also reformed its 1994 Federal Act of Administrative Procedures in 2000 with four main objectives: to increase transparency in drafting regulations, promote public participation, increase legal certainty regarding enforcement, and provide that benefits outweigh costs of regulation. In December, 1993 Mexico passed a Foreign Investment Law that removed most of the existing restrictions on inward investment (Vega and de la Mora, 2003: 165; Lustig, 2001: 95). This change was prompted by NAFTA. Thirteen sectors remained shielded from foreign investment, including oil, energy, mining, telecoms, transport. The 1993 law was amended in December, 1996 to permit greater foreign investment in communication and transport sectors, and again in September, 1998 to streamline administrative procedures (see Máttar et al, 2003: 131 fn7).
These adaptations were not accidental. For example, the Chapter 19 dispute process was intended to ‘be an instrument for change in the Mexican legal framework regarding countervailing and antidumping legislation since this aspect of Mexican law will now be subject to scrutiny by the international panels’ and this would ‘aid domestic reformers to accomplish their goal of making the Mexican legal process more transparent and comparable in certainty to the Canadian and US systems’ (cited in Clarkson, 2002: 22). Clarkson called this an ‘Americanization of Mexican law’, although he shows how Mexican law and practice continues to differ, and outlines several possible emerging legal orders, including Americanization of the Mexican legal system and a ‘NAFTA jurisprudence’ (2002: 25-6). NAFTA panels are already citing previous NAFTA panels in their rulings.

Other observers examine NAFTA-induced legal change in the context of institutional change. Ibarra-Yunez (2004: 2) asserts that NAFTA ‘has moved [Mexico] toward institutional upgrading’ in the areas of competition policy, consumer rights, property rights, bankruptcy laws, and the environment.’ Quintana Romero (2004: 58-9) found that ‘Mexico sought NAFTA without the country having an operating institutional framework corresponding to the changes it would bring. This led to a series of reforms partially oriented to comply with some of the institutional prerequisites implicitly demanded so that our trade partners would approve the treaty, but also as a way to strengthen the institutional framework with the massive changes in the economy during the period before the reforms’ (emphasis added).

All these analysts point out that there were other pressures on Mexico too, including the WTO and its own process of internal reform. Quintana Romero (2004: 60) for example states that ‘radical modifications’ to the Mexican legal system were initiated beginning in 1991, to ‘adjust to the changes implicit in the strategy of opening the economy, trade, the financial sector, and services to the outside world.’ He also looked at various measures of openness, political and civil freedoms, attitudes to corruption, and similar measures, and concluded that ‘the indicators reviewed do not clearly prove that NAFTA in and of itself has meant a new set-up and hierarchy of institutional forms for Mexico … while under NAFTA important changes in the legal system have been made formally … in practice, problems persist that affect the
quality of the institutions’ because of insufficient ‘social support’ (2004: 63-4). Ibarra-Yunez (2004: 5) also pointed to other pressures behind these changes. ‘China’s increased participation in world trade and emergence as a major recipient of foreign direct investment flows, reforms in India that liberalize labor, success stories of regulatory reform in Chile, New Zealand and Ireland [mean that] Mexico’s agenda not only relates to deepening NAFTA, but also to achieving economic efficiency and improved competitiveness’.

Clarkson likewise suggested that Mexico was adapting not simply because of NAFTA, but also the WTO. However, he concluded that NAFTA went well beyond what the WTO required, enumerating 21 alterations to Mexico’s administrative procedures, prompting one observer to note that it was ‘obligated to make significant, substantive revisions to its antidumping laws and regulations in order to implement the binational process’ (cited in Clarkson, 15-6). They included such reforms as maintaining an administrative record and publishing the administrative and final determinations. Of these 21 required changes, 20 were made, but one was considered incompatible with the domestic legal system. This was the requirement that decisions issued by applied to all other interested parties (not just the one under review).

These changes have brought new standards of reporting in Mexico (spurred by the 1994-1995 financial crisis as well). INEGI, the statistical agency, publishes statistics more often and more quickly. The Public Function Ministry oversees the transparency of all ministries and the new transparency law (Carrera interview). The result is that business has more confidence at the federal level (Commerce Department interview). Mexico used to change regulations without warning or pre-notification. Now they offer opportunities to comment, and take them into account. However, there is less change at the state level, and less transparency here.

**Institution-building**

NAFTA created several intergovernmental bodies that act to gather information and set the agenda for cooperation regionally. They all act as potential generators of new forms of behaviour and identity. They include the Free Trade Commission, the Commission on Labor Cooperation, the Commission on Environmental Cooperation, and two institutions created by the Mexican and American governments: the Border
Environment Cooperation Commission, and the North American Development Bank. The two latter institutions were intended to promote investment, development and implementation of environmental projects in the border region. In this section I concentrate on the non-border agreements.

The Free Trade Commission

The FTC oversees the implementation of NAFTA, makes recommendations, selects dispute arbitrators, and negotiates agreements, but must act on a consensus basis and does not promulgate secondary legislation. The three trade ministers manage the NAFTA agreement through the FTC, meeting once per year under its guise, but more often in other fora such as the WTO. Routine business conducted under the FTC includes ministerial exchanges of letters, pay levels for dispute panellists and decisions on business rosters. The ministers have a formal role in the dispute settlement chapter, but there is much delegation, and ministers are not usually personally involved in dispute settlement. Although the FTC may direct that consultations begin on disputes, the norm is to try for political resolution. At lower levels there is greater formal interaction between the three member states (since the second Clinton administration); this is driven by the need to produce ‘deliverables’ prior to ministerial meetings.

NAFTA created 25 committees and working groups within the FTC, including a textiles working group which was added later. Some of the committees and working groups have produced changes to national practices. Clarkson (2002) points to the NAFTA Telecommunications Standards Subcommittee, which agreed technical standards, despite much resistance. Other committees, such as the Sanitary and Phytosanitary Committee, provide fora to discuss national animal and plant health concerns but also keep trade moving. The intent is to improve mutual understanding of regulatory systems, maintain pressure for market access, and build confidence.

NAFTA did not result in permanent organizational changes in the USTR. Temporary geographic offices were created for the negotiations - the ‘Office of Canada’ and the ‘Office of Mexico’ - but these were folded back into the Western Hemisphere group afterwards. However, NAFTA had a direct impact on the Commerce Department, because two desk officers and a NAFTA compliance team were created. A database
on cases was created in an effort to track compliance. In Mexico the ministry which negotiated GATT entry (SECOFI) has become the Secretariat of the Economy. The undersecretariat for international trade negotiations has NAFTA officers in the Mexican embassies in Washington and Ottawa which are accountable to the undersecretariat, not the foreign ministry.

Officials from numerous agencies on both sides of the border state that NAFTA has produced a denser network of departmental contacts. It has increased the level and number of contacts between US and Mexican agencies. There has been an evolution in the relationship, more conversations about a broader range of issues and a recognition that ‘we’re all in this together’ (vis-à-vis competition with Asia and Europe). According to a USTR Department official, NAFTA ‘has made an enormous difference’ to contacts with Mexico (Melle interview). Cross-border contacts are very frequent between lower ranking officials. The discourse has changed as well. Mexico became a promoter and believer in free trade. Prior to NAFTA, Mexico did not talk about piracy and intellectual property rights issues. Incentives have increased to harmonize standards and minimize differences. The member states have initiated a dialogue over BSE, for example, because of the highly developed and integrated nature of meat markets. The same is true of intellectual property rights.

A State Department official also stressed that NAFTA had institutionalized US - Mexico contacts (Emrich interview). Increased trust and contact has resulted from more frequent and less politicized meetings, such as within the FTC working groups. The foreign secretaries of Canada and Mexico are former trade secretaries, as is Robert Zoellick (the Deputy Secretary of State). The deputy US mission chiefs at the Ottawa and Mexico embassies switched places recently, a sign of their mutual importance to US interests. Disputes have been taken off the political agenda into institutionalized dispute resolution mechanisms.14 In terms of contacting counterparts in Mexico, Emrich works mainly through the US embassy in Mexico for reasons of protocol, but does call her counterparts in Presidencia, and sees Mexican foreign ministry staff directly on occasion as well. She is sometimes in contact with the Secretariat of the Economy too. Contacts go through the US embassy during slower

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14 Interestingly, NAFTA member states are using WTO to resolve disputes between them because it is quicker and binding. Under NAFTA it is possible to block a decision.
periods, but she is on the phone 1-2 times per week during high activity times, with daily email contact.

For Commerce, likewise, the first point of contact is through the foreign commercial service in the US embassy. But there are also direct communications with Secretariat of the Economy. The relationship has become less formal. On urgent issues, or to follow-up an ongoing issue, one interviewee said he would call Secretariat of the Economy direct. But otherwise there can be sensitivities regarding US demands. There is still a residual worry about ruffling feathers in the Mexican politics. Channels of communication between civil servants have diversified – they are more frequent and deeper. Communication is not just about the ‘conflict of the day’, but about new ventures and projects. There are much closer contacts, and attitudes and expectations are evolving. Moreover, working relationships have moved beyond trade and commerce interaction, to health, agriculture and DHS issues, among others. Communication has become depoliticized and increasingly technocratic.

In September 2001, the US and Mexican governments signed the Partnership for Prosperity (P4P) Agreement, which sought to upgrade the relationship between the two countries (State Department, 2004). Two of the most important stated aims were to build a private-public partnership and to increase development in the areas that had fallen behind. The impact of this agreement was limited by the events of September 11, and it was bilateral rather than trilateral (Canada and Mexico signed their own P4P in October 2004). However, several important political changes were brought about. One is that a ‘North American Competitiveness Committee’ was established, involving government and business representatives from the two countries. Numerous other agreements were mentioned in the report, including a social security tax agreement between the two countries, housing and educational agreements, expediting financial interactions, official US investment agency support for Mexican investment, small business training, infrastructure development, and others.

There are two points to note. First the introduction to the report clearly links P4P to NAFTA. Second, many of these initiatives had the effect of broadening official participation with counterparts in Mexico, so that officials from numerous US federal agencies interact directly and routinely with their counterparts in Mexico. The P4P
initiative spread contacts to new agencies in both governments. From the US side it involves State, Treasury, Commerce, SBA, Agriculture, AID, OPIC, the Exim Bank, HUD, Peace Corps and the US Trade Development Agency. These agencies use their own existing federal funds to underwrite projects; they are not getting special NAFTA authorizations from Congress. Interaction between the Commerce Department and the Secretariat of the Economy is low-key but institutionalized, with the creation in June 2003 of a P4P Contact Group at the Deputy Assistant Secretary level.

This has helped depoliticize issues and encourage their resolution at lower levels. There are eight working groups within P4P on competitiveness, infrastructure, housing, rural development, IT and other issues. They are encouraged to speak to each other, and according to one participant they look to circumvent Presidencia, the Mexican agency which is the counterpart to the US National Security Agency, and which tries to control interaction. It is under-resourced and so incapable of doing so, but the important point is that cross-border interaction has spread, with the apparent blessing of technocrats on both sides of the border.

Environmental Cooperation

The North American Agreement on Environmental Cooperation (NAAEC) is one of the side agreements that were the product of late negotiations undertaken by the new Clinton Administration. The NAAEC created a Commission on Environmental Cooperation (CEC), led by a Council of Ministers (the environment ministers from the three member states). Citizens are entitled to petition the CEC if they feel national environmental laws are not being enforced. A factual record may be developed. Two-thirds of the Council must agree to this step, and also to making the factual record public. These steps would seem to make regional solutions possible. However, there is widespread criticism from practitioners and academics that the side agreement is ineffective at promoting greater domestic commitment to the environment (Abel, 2003).

Yet the Joint Public Advisory Committee (JPAC) is potential agent of NAFTA-ization. It is a transnational body, with a remit to promote environmental cooperation, ecosystem protection, and sustainable development. It gives advice to the Council of Ministers (for example on the enforcement of environmental law) and information to
the Secretariat, and meets 3-4 times per year with representatives of the public. Attendance at meetings in the past has been financed by the CEC. It acts to promote ‘active public participation and transparency in the actions of the CEC’ (Dannenmaier, 2005: 2). It does not act on behalf of governments, but sets its agenda in response to public input, through its own ideas, and in response to Council requests. In the first 10 years of its existence (1994-2004), it held 93 meetings, made 79 recommendations, and produced a number of reports (Bourget, 2004).

In terms of public participation and input, therefore, JPAC plays a potentially significant role, although its capacity to generate transnational interests and identities is somewhat limited by the power of the member state principals. However, there are other means of access to the CEC for the public, including the submissions process of Articles 14-15, as well as ad hoc public meetings (Dannenmaier, 2005: 2 fn2). JPAC has ‘provided a critical barometer of public concern’ in its interactions with the Council (Dannenmaier, 2005: 3), and has witnessed consistently high engagement with environmental NGOs. The Secretariat has provided funding for groups to attend JPAC meetings, a mechanism which in the EU has enabled interest groups to participate in the policymaking process more effectively and may contribute to NAFTA-ization.

While the Council has made progress in developing a number of environmental initiatives, the perception of a lack of commitment to consultation and advocacy may undermine the creation of a strong regional institution. The process of citizen input has been criticized for being weak; Dannenmaier (2005: 12) indicates that the member states ‘sought to further define and constrain’ the citizen submission process to undermine the potential pressure to take environmental action. There has been resistance to these constraints, notably from JPAC, and from the Independent Review Committee which reported in June, 1998. JPAC asserted that limiting the development of strong civil input ‘did not advance key issues of accessibility, transparency, independence, balance and impartiality, which JPAC deemed critical to the integrity of the Article 14/15 process.’ JPAC indicated its ‘genuine concern that the credibility of the CEC was at stake’ (both quotes cited in Dannenmaier, 2005: 13). However, the fact that member states are ultimately in control of the process suggests that civil society interests may well seek national solutions rather than
solutions through NAFTA organisations; likewise, political elites and civil servants may be less inclined to think and respond regionally than nationally. The Council acts to preserve national autonomy; JPAC strives for greater transnational input from advisory bodies and citizen groups.

The environmental side agreement has produced some results, however. It supports the Sustainable Coffee Fund, along with Banamex, the Mexican government, and others, promoting small-scale shade-grown coffee promotion in southern Mexico (Vaughan 2003: 65, 82). It has supported and encouraged Mexican environmental statutes and institutional capabilities on the environment. Action on the US-Mexican border on environmental issues has resulted from NAFTA, and also benchmarking of environmental norms – including harmonization of toxic release data and development of criteria for air emissions (see Vaughan, 2003: 66). NAFTA has helped bring about a new registry on emissions in Mexico and has worked with NGOs to help improve Mexican environmental conditions, according to the director of CEMDA (Alanís interview). According to a US-based environmentalist, the border area is better because of NAFTA. Resources are available for technocrats, experts and scientists to work on environmental issues (McGraw interview). NAFTA has also induced the EPA to integrate some funds for the border region which had been dispersed in various parts of the agency previously (Carrillo interview). Carrillo also claims NAFTA has created a sense of North American environmental identity and constituency. Yet it has also raised expectations among the environmental community that have gone unfulfilled, and so the political adjustment that has occurred is partial.

One of the most significant political developments resulting directly from NAFTA has been the strengthening of the Mexican environmental movement. The Mexican Center for Environmental Law (CEMDA) was formed in August, 1993 as a direct result of NAFTA and it continues to receive up to 90% of its funding from US foundations (Alanís interview). CEMDA’s environmental activism includes working directly with the Commission on Environmental Cooperation (CEMDA’s director was a member of JPAC). Its director believes it is more deeply committed to the CEC than American groups, and participates more in its activities, and this may be evidence of how important NAFTA has been to the development of Mexican civil society in this
area. Mexican interests have fewer alternatives for satisfaction of their demands and therefore more to gain.

Labor Cooperation

The side agreement on labor – the North American Agreement on Labor Cooperation (NAALC) – created a Commission on Labor Cooperation (CLC), with a similar though slightly different organizational structure to CEC, and which produces reports on the labor market in North America.\textsuperscript{15} Eleven principles were specifically enumerated, and the agreement was intended to promote enforcement of these principles, but not to enumerate new ones; moreover enforcement was only to take place through national channels. The CLC contains working groups and committees, such as on occupational safety and health. Some are trinational, others not. Ministerial meetings occur once per year and there are three or four meetings per year with national administrative offices.

However, there are some important differences between CLC and CEC, reflecting the higher political sensitivity associated with labor issues and the deep reluctance to permit any supranational authority to emerge. The labor side agreement is about enforcing national law, not harmonizing law. The CEC has the authority to collect facts and information, and convene dispute panels, while the CLC does not have these powers. Public submissions on labor matters get resolved with ministerial negotiations and are channelled through national governments. No expert panels are convened by the CLC, which is not part of the public information process. There is no interaction with the public or with interest groups. The CLC must communicate with National Administrative Offices to get information, and communications tend to be on routine administrative issues only. The CLC plays a limited role in forming relationships with NGOs, and there is no direct official contact. Staff must get permission for meetings and get approval for their research. The level of funding for the CLC is lower than for the CEC. It receives about $2.1 million per year from the three governments, whereas the CEC receives about $9 million.

\textsuperscript{15} I interviewed several individuals in the Commission for Labor Cooperation and Lewis Karesh in the Office for Trade Agreement Implementation, US Department of Labor, and have made use of their views in this section.
Notwithstanding the nationalistic and intergovernmental approach taken here, NAFTA has brought about changes in labor politics in several important respects. First, according to a well-placed official in OTA, there is greater collaboration with Mexico and Canada than ever before on this issue, and without the side agreement there would not be this level of interaction (Karesh interview). The creation of offices (the NAOs and the CLC) created structures of cooperation, and they helped to institutionalize cooperation. The forms of cooperation include information sharing, expertise, meetings, seminars, outreach/education, and others. Moreover, the US government has tended to look more legalistically at Mexico following NAFTA to determine whether they are meeting their legal agreements.

Because of the sensitivity in Mexico about accepting US assistance, there is often a better working relationship on technical rather than political issues. For example, when Mexico wanted to improve its electronic job banks and employment service centers, they accepted US help. This has led to a deepening of technical-level contacts between the two countries. Technical assistance personnel in the Department of Labor get into direct contact with their counterparts in Mexico – which they never did before. Contacts have spread beyond the international affairs offices. When staff see something of interest in the newspaper or on the internet they contact counterparts in Mexico to discuss it. Discussions between the two governments extend beyond NAFTA to ILO issues as well. This level of contact did not exist prior to the creation of the NAFTA NAOs.

A further sign of political change in this area is that Mexico is more committed to women’s rights in workplace, combating discrimination and harassment. Mexico must to come to fora and explain what it’s doing. They want positive things to say, and the external pressure of the labor side agreement helps them. No arbitral panel/dispute settlement has been undertaken in labor. Instead moral suasion and consensus is the modus operandi. Therefore, despite the criticisms of ministerial consultation – its lengthy process, the fact that it has no teeth – placing issues on agenda at high level has important consequences (Karesh interview).

**Civil Society**
Like the Mexican environmental movement, RMALC (the Mexican network against free trade) is the product of NAFTA. It created a multi-sectoral network that would promote alternatives to free trade negotiations. After the creation of NAFTA, RMALC’s objectives changed. They monitored and gathered evidence, and also consolidated and built on the links they had established with groups in the US and Canada. The US counterpart is the Alliance for Responsible Trade (ART) and the Canadian groups include the Anglophone Common Frontiers and the Francophone Quebec Network Alliance for the People. ART is a network of diverse groups in the US, comprising the AFL-CIO, Friends of the Earth, family farm, women’s and church groups, among others. It was established in 1992 specifically because of NAFTA, responding to a Canadian initiative (Hansen-Kuhn interview). There were disagreements between the national groups, but they eventually came up with trinational positions and built a common understanding.

ART also experienced internal sectoral difficulties – environmental and union groups were uneasy partners for example. However, during the NAFTA negotiations environmental groups and unions rethought cooperation, according to Hansen-Kuhn. Leadership played a role. John Sweeney came to the AFL-CIO in the mid-1990s, and as a consequence the AFL-CIO changed its position from outright protection to defense of foreign workers’ rights and economic development in poor countries (Baugh interview). Trust was built up during this process. Numerous cross-border initiatives were either initiated or increased dramatically under NAFTA. Labor cooperation across the border had been the most challenging issue, given the contradictory interests and sense of nationalism, but the change in the AFL-CIO position facilitated greater cooperation with Latin American trade unions. NAFTA drove increased interaction between groups in the member states, which continues. RMALC also worked to create the Hemispheric Social Alliance, using the experience of NAFTA cooperation to build anti-FTAA cooperation. Interviews with these NGO representatives revealed their strong perception both that cooperation has become permanent and that it occurred despite, not because of, the existence of specially-created institutions to address markets externalities such as labor cooperation (Hansen Kuhn). Trinational NAFTA events take place in HSA meetings, and to participants they seem like three branches of one organization (Hansen-Kuhn interview).
Some tentative findings

The institutionalization of an economic relationship between the US and Mexico appears to have set in motion certain political adjustments by altering the opportunity structure or by changing the incentives that actors face. This has occurred in several ways. First, the creation of one of the intergovernmental institutions (the CEC) was accompanied by a trinational agency (JPAC) which has shown signs of activism and has the potential to create a common environmental interest among the three member states. By providing funding for interested parties to attend meetings, by promoting a norm of environmental protection, and by holding some (albeit limited) powers of investigation and fact-finding, the CEC and JPAC have pushed a common environmental agenda hard enough for member states to push back. This has created new expectations among environmental interests, although they complain about lack of progress.

Second, the obligations of the Treaty have brought legal and administrative changes in both the US and Mexico, though the changes have been most profound in the latter. Similar to the pressures faced by eastern and central European countries prior to joining the EU, Mexico adapted its legal system in numerous and far-reaching ways. Further pressures for harmonization of technical regulations have been apparent and are being pursued, in order to reduce regulatory differences, promote trade and smooth transactions. Likewise, the dispute resolution mechanisms incorporated in NAFTA have meant changed behavior, in the US as well as in Mexico.

Third, governmental communication at both political and technical levels has changed dramatically. Communication has trickled down to lower non-political levels in the bureaucracies of both governments; it has seeped sideways into new agencies and departments; it has become more frequent, more direct and less formal – that is, not through the traditional conduits of embassies or trade ministries and often by email or direct telephone calls (cf Jordan, 2003; Borzel and Risse, 2003). Funding for projects in Mexico has been provided by US agencies’ existing funds, not through specially-authorized funding. Even on important trade questions, interaction has intentionally been institutionalized and handed from ministerial to lower levels.
There is clearly a problem-solving ethic at work, a desire to make NAFTA a success, which has helped facilitate understanding and transparency.

Fourth, even in highly sensitive areas like labor where intergovernmental power and a zero-sum-game mentality have limited the emergence of a common interest, there are signs of political adjustment. There are both social and instrumental motivations behind these adjustments. In the case of labor rights, Mexico has, according to one interviewee, responded to a changing set of expectations and tried to show results by reforming policies and practices even where it was not legally obliged to. Pressures of persuasion, mimicking or shaming have brought change. Likewise, in migration, pressure for new initiatives have not simply been the result of a pre-existing and unrelated problem (high levels of illegal immigration) but have been augmented by the existence of NAFTA. Institutionalized cooperation in trade and investment has led to calls for extended cooperation on migration.

NAFTA has also contributed to the initiatives on security, and especially the efforts to link security with commerce. A Commerce official explained that there is an understanding that Mexico and Canada are different from other states because of the land border and the high volume of traffic. Enforcement of the Bioterrorism Act and pre-notification requirement for shipments needs to be done with sensitivity to the requirement for smooth trade flows. The application of laws regarding security should be applied differently, he argued.

Fifth, it is clear that civil groups have emerged or been changed by NAFTA. The Mexican environmental group CEMDA was created as a direct result of NAFTA, and though it works on non-NAFTA issues, it has been given a strong boost by the side agreement, including the funding provided by the CEC and the opportunity to advocate environmental interests in the NAFTA institutions. The anti-free trade coalition joining RMALC and ART, the Mexican and American networks, was also created as a direct result of NAFTA and has solidified its relationship despite the disappearance of its initial objective (preventing the agreement in the first place). Its objectives have changed and it has extended cooperation to other groups in the Americas. For many US interest groups, the grass roots now extend throughout Latin America.
At the same time, there are clear variations in the level of political adjustment. These variations are national, sectoral and institutional. There is national variability because the pressure to adjust was far higher in Mexico than the US. This is not simply because of the power of the US as a hegemonic force vis-à-vis Mexico but also the latter’s decision that it needed to open its economy. Adjustment depended on the level of development. There are also sectoral variations. Not all sectors were included in NAFTA. Oil in Mexico and shipping in the US were excluded for example, and some sectors faced only partial liberalizing pressures. Mexican banks that had been privatized in the early 1990s gained assurances that financial market liberalization would be delayed. Hence, Annex VII of NAFTA allowed foreign investment in Mexico’s banking sector to be restricted to 15% of banks (Nadal, 2003: 76). These restrictions were lifted in 1998 as a result of the peso crisis and the mounting insolvency of Mexican banks (Middlebrook and Zepeda, 2003: 15; Nadal, 2003: 76). NAFTA, in other words, had a limited effect on political change in this sector. In affected sectors with exposure to international competition, patterns of interest demands and bureaucratic activity with counterparts from other member states has increased. NAFTA therefore has both a territorial/regional component (in its trinational policies and institutions) and a functional component (in its uneven application to economic sectors).

Variations in institutional capacity also affect political adjustment. Both countries’ Congresses contain deep wells of sovereignty-conscious nationalist anti-NAFTA opinion, and so efforts have been made to bypass them. Where they can be bypassed, national executives are more able to achieve adaptation. Executive agreements not requiring legislative approval have been pursued as a more effective way of achieving change. On SPP issues for example, a Commerce official explained that the governments were looking for changes that do not require legislative approval, as the risk is that everything in the original agreement would be reopened.

Institutional capacity is not static however. Evolving norms and ideas, and active leadership, can have a profound influence on institutional capacity for change. For example, when Mexico’s Secretariat of Trade and Industrial Development (SECOFI) negotiated GATT entry in the 1980s it tried to minimize commitments, still
functioning partly under the logic of import substitution protectionism. But the pressure to liberalize, stemming from President de la Madrid’s decision in 1985, led to snowballing commitments to include more sectors and deeper cuts to trade barriers (Clarkson, 2002). This was augmented by the emergence of a class of US-trained Mexican economists who helped change the culture toward economic openness. Mexico began to be a believer in free trade. Now SECOFI has become the Secretariat of the Economy, a ministry with a greater commitment to economic openness.

Likewise, when NAFTA negotiations began, the then SECOFI secretary, Jaime Serra Puche, asked the Mexican business community to create an organization representing the business sector. They reacted by establishing COECE (the Coordinating Council of Foreign Trade Business Organizations) in 1990. Thacker states that ‘COECE was created to serve as the representative of the entire Mexican business community for NAFTA [and] survives today to coordinate trade negotiations with the rest of Latin America, the EU and other countries.’ (Thacker, 1999: 66). However, COECE was disproportionately representative of big export firms (and the negotiating groups within COECE were disproportionately representative of financial firms) and there was some unhappiness among small business groups that they were marginalized. He goes on to point out that whereas prior to NAFTA, contact points between public and private actors had been dispersed across both agencies and private sector organizations, NAFTA marked a change. A new SECOFI office was established to coordinate the Mexican negotiating position, and COECE served the same role for the private sector, bringing together a wide membership base under one umbrella.

The intentional inclusion of the private sector in the negotiations, with SECOFI in constant consultation with them, was novel, and helped bring about an increase in trust. The business community had previously had conflictual relations with SECOFI. Moreover, dealing with one private sector business organization, whose interests were consistent with the new liberalizing tendencies of the Mexican trade negotiators, helped facilitate the initial agreement in a manner that would not have been possible before, and which was to have important subsequent effects.

When considering the issue of NAFTA-ization there are two more issues we need to bear in mind. One is the variable of durability. Some change appears to have become
regularized and permanent, particularly in technocratic areas where there is a high degree of legal precision in the agreement, or in civil society interaction where strong interests are at stake. Other change is more prone to political derailment, such as happened after 9/11, when initiatives were put on the back burner. Therefore, major crises or external events hold the possibility that the process of political adjustment will be interrupted, and a familiar pattern of defending the national interest will re- arise. On the other hand, the response to some external crises may well be colored by the existence of NAFTA. For example, the close US involvement and financial commitment to Mexico following the 1994-5 peso crisis was certainly affected by the recent entry into force of the NAFTA agreement.

Second is the point (to reiterate what I have said earlier) that NAFTA is not the only cause of political adjustment. Other international organizations play a part in driving institutional and policy change domestically. This is especially true of GATT/WTO. Likewise, economic crises in Mexico such as the 1982 debt crisis and the 1994/5 peso crisis have prompted domestic political change (see the contributors to Middlebrook and Zepeda, 2003). It was clear that Mexico was making economic reforms prior to and independently of both GATT and NAFTA. In 1984 for example, the government began to liberalize inward investment (Vega and de la Mora, 2003: 165). Economic reforms were wide-ranging and deeply-felt in the economy, changing long-standing patterns of interaction between the state and civil society (see Middlebrook and Zepeda, 2003). The established and recognised workers organization, CTM, was weakened, the state withdrew from its commanding role in the economy, and a more pluralist state-civil society interaction resulted. In some sectors (like agriculture) NAFTA was simply the final element in a process of internal reform and external commitment (de Grammont, 2003: 352). Therefore, NAFTA can be seen as one element of a reform process entered into by successive Mexican governments to respond to economic crises and collapsed confidence in the ability of the import substitution industrialisation model to deliver growth.

Likewise, other initiatives and agendas, some predating NAFTA, have driven US-Mexican cooperation. For example, the Binational Commission is a forum bringing together Cabinet Ministers from the two states, but it dates from 1981, well before NAFTA. The High Level Contact Group exists in order to facilitate dialog on
narcotics issues. According to a former American ambassador to Mexico ‘it is quite common for a cabinet minister in Mexico, or an undersecretary or a director general to pick up the phone and talk to his or her counterpart in the United States’ (Davidow, 2005: 53). These contacts have not simply institutionalized and regularized communication between the two governments, but they have altered expectations as well. For example, the bureaucracies of the two sides work very hard in advance of Binational Commission meetings to produce ‘deliverables’ – achievements that can be unveiled. Rosenblum (2004: 111) also remarks on the activity of the Mexican consular network, Congressional and executive branch officials, in lobbying activities in the US, including Proposition 187 and through the Program for Mexican Communities Abroad, a political organization building Mexican identity and solidarity. This activity has increased following NAFTA. However, it is not clear how much of this interaction is due to NAFTA. Many forms of contact pre-date NAFTA or would have occurred in any event.

**Limits to NAFTA-ization**

It is important not to overstate the extent of political adjustment and to remind ourselves of the limits to NAFTA-ization, in addition to those contributing to the variable patterns of adjustment we have just discussed. First, most obviously, national interests and power and the intergovernmental nature of the agreement, limit the scope for domestic political change. NAFTA lacks a sense of ‘actorness’ through supranational institutions and is unable to promulgate secondary legislation. It also does not represent its members externally, and with limited exceptions its member states define their foreign policies separately from one another.

American policy toward security, migration and drugs are examples of nationalized discourse and policy preventing (or seriously retarding) the emergence of a common interest. There was already interaction in these areas before NAFTA, and the unilateral reaction of the US post-9/11 shows how little security had become NAFTA-ized by that point. Security initiatives have been driven by the US, with its asymmetrical power over the other two, rather than by a sense of common purpose deriving from NAFTA or from some institutional imperative. Migration is another zero-sum game in which national sovereignty and domestic interests often trump common purpose. Serrano (2003) makes the case that US border security policy was
hardened after NAFTA, both in the sense of attracting increased funding (from $1 billion in 1993 to $1.7 billion in 1998) and in the sense of the physical border attracting more attention from federal agents. ‘The militarization of security cooperation along the border appears to have been the price Mexico paid for the free gift of NAFTA.’ (Serrano, 2003: 57).

Public perceptions, public discourse, a history of tensions and mutual suspicion, all limit the public and institutional capacity to adjust, even with the pressures and incentives of a highly-detailed free trade agreement. NAFTA has not contributed to a new perception of Mexico among policymakers in the US – a sense in which Mexico and the US are part of a common endeavour. The continuing debate over whether to ‘certify’ Mexico on drugs – marking Mexico as taking insufficient measures against drug shipments to the US – rankles in Mexico. Also, the process of adjustment in Mexico has, according to a high-ranking official in DHS, come slowly ‘with hesitation. It can’t break away from its Lone Ranger, Fortress Mexico past’ (Arcos interview). Mexico doesn’t want to be seen as a stooge to the US. The ideology and discourse of mutual suspicion continue to affect the process of adjustment. The two Congresses are especially prone to this. The publics are also prone to suspicion of each other and of NAFTA itself. State referendums in California and Arizona on the provision of public services to illegal immigrants are a case in point. Also, the SPP initiative, which had variously been called NAFTA Plus and the North American Initiative, was considered by the US government to be too institutional for US public opinion. On new initiatives, Mexico often favors the NAFTA cover of trilateralism, as it is less obviously an American diktat and easier to sell to the Mexican public.

Other limits to NAFTA-ization are more latent than real. Safeguard clauses such as snap-back tariffs allow member states to protect their domestic economies in cases of import surges. States retain the ability to act on trade measures during balance of payments crises. Dumping cases not dealt with in NAFTA working groups but bilaterally, and are highly nationalized. The ability of member states to implement dispute settlements on their own (or refuse to do so) differs from the EU where ECJ decisions are supposed to be enforced and are superior to national court decisions (on the legal aspects of NAFTA see Abbott, 2000). And the ability expressly to withdraw
from the NAFTA agreement six months after notifying partners is a clear potential limit to NAFTA-ization.
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