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Making Canadian Trade Policy:

**Domestic Decision Making and the Negotiation of the Auto
Pact and the CUFTA**

PhD Thesis

Laura Ritchie Dawson

Summer 2005

Submitted to the Department of Political Science

Carleton University

Ottawa, Ontario, Canada

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Abstract

The creation of a bilateral trade agreement involves more than successive bargaining rounds with an external trading partner. Long before formal negotiations begin, the idea to negotiate with an external trading partner takes shape in the domestic sphere where it may rise on the government's decision agenda as a potential solution to a perceived problem.

John Kingdon's multiple streams theory provides a strong organizing and analytical framework to explain how problem definition, idea diffusion, and key political factors bring a state to the cusp of a decision – including one to negotiate a bilateral trade agreement. The limitation of multiple streams, however, is that the theory does not move beyond a government's initial decision to negotiate with another state, nor does it fully account for the dynamics of bargaining to build domestic coalitions in the politics stream— a process explicitly acknowledged by multiple streams theory. By adding a bargaining model to multiple streams, it is possible to better understand the dynamics of the domestic politics stream and also the subsequent interactions at the bilateral negotiation table after the domestic decision to negotiate is made.

This thesis characterizes the process of bilateral trade policy development as an integrated series of successive decisions that move the process from domestic agenda setting to joint bargaining on agreement content and, finally, back to the domestic realm for ratification. This thesis argues that, in the formation of bilateral trade agreements, multiple streams and bargaining activities are interdependent and functionally linked. So, similarly, are domestic and external processes. Through the articulation of a multiple streams-synthetic utility bargaining model, this thesis demonstrates that the domestic

processes leading up to a decision to negotiate a bilateral trade agreement shape and constrain what is possible in the bilateral negotiations themselves, and that the results of bargaining feed back to the domestic level where they, in turn, shape subsequent government decisions related to agreement development.

To better understand the interplay between domestic and bilateral dynamics, this thesis uses two trade agreements negotiated between Canada and the United States as central case studies. The policy evolution of the 1965 Auto Pact and the 1989 Canada-US Free Trade Agreement provide substantive insight into Canada-US trade policy dynamics but the cases also serve as a testing ground for the development of an analytical framework to integrate domestic policy decision making and international negotiations – two traditionally separate areas of inquiry.

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Chapter 1

Trade Policy Decision Making in Canada

Introduction

In 1965, Canada signed the Auto Pact¹ with the United States, creating an integrated North American market for automotive products that remained virtually unchanged for 36 years.² In 1989, the Canada-United States Free Trade Agreement (CUFTA) came into force, significantly reducing tariff and non-tariff barriers between the world's two largest trading partners, who today claim trade flows upwards of \$1.8 billion dollars per day.³

Paradoxically, Canada only agreed to negotiate the Auto Pact after US countervailing duties threatened to overturn its preferred policies of duty remission. Canadian Auto Pact negotiator Simon Reisman claims that the agreement was a temporary response to a bilateral economic problem - it was "never intended to be cast in concrete for all time."⁴ Similarly, the tenuous survival of 1989 CUFTA overcame more than a century and a half of failed attempts at Canada-US trade reciprocity.

In hindsight, it is tempting to look at the history of Canadian trade relations with the United States as a logical progression of policy initiatives moving the two economies

¹ *Canada-United States Automotive Products Trade Agreement* (1966).

² According to the Canadian Vehicle Manufacturer' Association, the Auto Pact is Canada's "most successful trade agreement." See CVMA website at www.cvma.ca/Issues/Trade.html.

³ Two-way trade figures from Department of International Trade, Canada-US Relations Website (www.dfait-maeci.gc.ca/can-am/).

⁴ Canada, *Inquiry into the Automotive Industry: The Canadian Automotive Industry: Performance and Proposals for Progress* (Reisman Report) (Ottawa: Minister of Supply and Services, 1979), iv.

incrementally closer in response to domestic and international pressures. However, to do so would be to judge past events according to contemporary values and understandings. Rather than part of an inevitable trajectory, at the time of their conception the Auto Pact and CUFTA trade agreements were described in such uncertain terms as “a near run thing,”⁵ and a “leap of faith.”⁶

Some of the people involved in the negotiation of these trade agreements were more aware of their potential contribution to history than others. A Canadian negotiator for the Auto Pact recalls that the agreement “was done by very few people under extraordinary circumstances.” Only later, however, did he realize how unusual the efforts being made by the two countries were: “In hindsight, I’ve thought it was amazing how it all happened.”⁷ Similarly a US CUFTA negotiator recalls that his sense of making history was most often overshadowed by the daily demands of the process:

The agreement turned into a great thing and worked remarkably well. And if it hadn’t, I don’t think there would have been a whole lot of other options left to pursue. But I don’t know that we felt quite so historic when we were doing it, so much as harried and busy, and committed.⁸

While trade bureaucrats tend to focus more on the demands of the task at hand during the evolution of an agreement, political actors are more likely to consider the broader policy implications of the agreement and its contribution to the governing party’s future legacy. Recalling the CUFTA negotiations, former Prime Minister Brian Mulroney reflects:

⁵ Michael Hart with William A. Dymond and Colin Robertson, *Decision at Midnight: Inside the Canada-US Free-Trade Negotiations* (Vancouver: UBC Press, 1994), 318.

⁶ Royal Commission Chair, Donald Macdonald, quoted in the *Globe and Mail*, November 19, 1984.

⁷ Interview with Canadian Auto Pact negotiator, Doug Arthur, May 16, 2003.

⁸ Interview with former US trade negotiator, Charles (Chip) Roh, April 27, 2001.

When you do something that is historic, you know that it is important, but you don't know how important and you don't know how history is going to remember you. However, with the free trade agreement, I thought that we were doing the right thing and I thought we would be vindicated in the fullness of time."⁹

Far from being an inevitable process of policy development, the evolution of a trade agreement from an abstract idea to a binding international commitment, requires a very specific convergence of ideas, interests, economic logic and more than a little bit of luck. Because it often represents a radical departure from the usual incremental pace of policy change¹⁰ a trade agreement often demands advocacy, risk taking, and innovation from the individuals involved. For bureaucrats, much effort is required to overturn the *status quo* and standard operating procedure within governmental institutions. For the politicians advocating change, they may risk their credibility and even their careers in order to push the abstract toward reality.

Even after the decision to pursue an external trade agreement is made, the form that the final agreement will take – its depth and scope– remains unknown. The final package of negotiated rights and obligations depends on myriad decisions and influences originating in one's own domestic environment and in that of one's selected trading partners. The initial decision to pursue an agreement is a significant one, borne out of complex domestic processes within the states involved. Of no less importance, however, are the many subsequent decisions required to create the final content of the agreement. These are arrived at through deliberation and bargaining at the domestic and external

⁹ Interview with former Canadian Prime Minister Brian Mulroney, June 12, 2001.

¹⁰ Relatively long periods of policy stability interrupted by infrequent but radical change is captured in the policy literature by punctuated equilibrium models. See, for example, Frank R.

levels. Despite the role of these decisions in transforming vague, relatively unformed notions into binding legislation, the process of policy content formation is not well integrated into theoretical models of policy development. It is this multi-faceted process that is the focus of this thesis.

Traditionally, public policy analysis tends to evaluate the process of agenda setting – how a certain idea attracts governmental attention – through one type of analytical model, and the development of policy content through another type of model. While both processes are rooted in decision-making dynamics, and many good decision-making models are available to analysts, such models are seldom used to capture both agenda setting and external bargaining within a single extended process.

The puzzle of how an agreement that was deemed ‘impossible’ in the years leading up to it is labelled ‘inevitable’ in the years following its implementation is wrapped in the larger question of how Canadians get the trade agreements they do. How does a generalized proposal to solve a particular commercial problem evolve into a package of specifically defined obligations covering a range of commercial trading sectors? To better understand this process, this thesis will trace the evolution of two bilateral trade agreements – the Auto Pact and CUFTA - from agenda setting to the delivery of a final text to Parliament for ratification. It will do so from the Canadian perspective but will assimilate inputs from the United States and international dimensions as required. It will track the dynamics of domestic and international decision making,

Baumgartner and Bryan D. Jones, “Agenda Dynamics and Policy Subsystems,” *Journal of Politics* 53:4 (November 1991).

domestic and international bargaining, and attempt to integrate both of these processes and levels of analysis within a single continuum.

Before moving to the development of an integrated, analytical framework in Chapters 2 and 3, the balance of Chapter 1 will provide an overview of current analytical approaches to trade policy in general and Canadian trade policy in particular. It will then review the central characteristics of Canadian trade policy in an attempt to narrow the range of appropriate theoretical approaches based on the nature of Canadian trade policy and of the questions we wish to pursue. In Chapter 2, a range of theoretical models is examined for applicability to these criteria and, in Chapter 3, the specific components and dynamics of the resulting analytical framework are presented.

Trade Policy Analysis: State of the Field

Understanding the process of trade policy formation is challenging for analysts because it straddles so many types and levels of analysis. It involves macro dynamics at the level of national governments and economic regimes; mid-level interactions among government departments, sub-federal¹¹ entities and interest groups; and countless individual interactions between prime ministers and presidents, ministers and officials, and among bureaucrats in various federal and sub-federal departments.

There exist numerous studies of the trade negotiations in which Canada has been involved, including the Canada United States Free Trade Agreement, the North American Free Trade Agreement (NAFTA) and the various negotiating rounds of the General

¹¹ Including the Canadian provincial and US state levels.

Agreement on Tariffs and Trade (GATT).¹² These studies often deal with substantive issues such as the development of an international regulatory regime for dispute settlement, intellectual property rights or trade in services. They may also examine the dynamics of various types of trade negotiations, such as multilateral negotiations versus bilateral negotiations, or negotiations between states with asymmetric power or resource endowments.

Trade policy analyses can be loosely categorized as atheoretical, mainstream theoretical (based largely on one recognized school of theory), or synthetic, (drawing upon a number of theoretical lenses and levels of analysis).¹³ Atheoretical studies such as Hart, Dymond and Robertson's account of the CUFTA in *Decision at Midnight*¹⁴ have as their primary concern the presentation of a detailed account of events. By contrast, theoretical analyses tend to focus on the processes – domestic and international, political and economic – underpinning the events. We discuss these theoretical approaches briefly below.

Within the international political and economic analytical literature, a primary preoccupation is to explain the logic of outcomes. Studies such as Cameron's 1997 NAFTA analysis use game theory to predict the outcomes of international negotiations from the political perspective.¹⁵ Odell (2000) and Kremenjuk and Sjöstedt¹⁶ analyze the

¹² Subsumed under the World Trade Organization (WTO) in 1995.

¹³ This distinction is based on observations made by John Odell in *Negotiating the World Economy* (Ithaca: Cornell University Press, 2000), 15-16.

¹⁴ Hart *et al.*, see note 5. See also Gordon Ritchie, *Wrestling with the Elephant* (Toronto: Macfarlane Walter and Ross, 1997), and Hermann von Bertrab, *Negotiating NAFTA: A Mexican Envoy's Account* (Washington: CSIS-Praeger, 1997).

¹⁵ Maxwell Cameron, "North American Free Trade Negotiations: Liberalization Games Between Asymmetric Players," *European Journal of International Relations* 3:1 (1997).

results of international economic negotiations using both assumptions of economic rationale and models of value-creating and value-claiming bargaining.¹⁷ Examples of domestic decision-making in Canadian trade policy such as, for example Tomlin¹⁸, Howlett¹⁹ and Lusztig²⁰, tend to focus as much or more on processes, such as what led up to a decision to negotiate, than on outcomes of the negotiations themselves.

One of the complaints about trade policy analysis is that a single unit or level of analysis in theory is not sufficient to fully understand the trade policy process through to the outcome level. Odell and Willett, for example, argue that liberal economic analysis of trade policy at the state level does not account for the contribution of interest groups on decisions of whether to open or protect markets.²¹ To expand the explanatory capacity of

¹⁶ Victor Kremenjuk and Gunnar Sjöstedt, eds. *International Economic Negotiation: Models Versus Reality* (Northampton MA: Edward Elgar, 2000). Because Kremenjuk and Sjöstedt are concerned with both economic theory and negotiation theory, they might technically be considered to employ an eclectic approach. However, because most of their work involves either/or comparisons of the two theoretical approaches with little synthesis until the last chapter, they are classified here among the mainstream or single-perspective models.

¹⁷ See Odell, "Market Conditions and International Economic Negotiation: Japan and the United States in 1971," in Kremenjuk and Sjöstedt, 267. Odell's model is fully elaborated in his *Negotiating the World Economy* (2000).

¹⁸ Brian W. Tomlin, "Leaving the Past Behind: The Free Trade Initiative Assessed," in *Diplomatic Departures: The Conservative Era in Canadian Foreign Policy, 1984-93*, Nelson Michaud and Kim Richard Nossal, eds. (Vancouver: UBC Press, 2001).

¹⁹ Michael Howlett. Predictable and Unpredictable Policy Windows: Institutional and Exogenous Correlates of Canadian Federal Agenda-Setting," *Canadian Journal of Political Science* 31:3 (September 1998).

²⁰ Michael Lusztig, *Risking Free Trade: The Politics of Trade in Britain, Canada, Mexico and the United States* (Pittsburgh: University of Pittsburgh Press, 1996).

²¹ The argument for the use of both political and economic theory is made more explicitly in John Odell and Thomas Willett's *International Trade Policies: Gains from Exchange between Economics and Political Science* (Ann Arbor: University of Michigan Press, 1993).

trade analysis, Odell, Sjöstedt and others call for a synthetic approach incorporating two or more theoretical frameworks.²²

The case for a theoretical synthesis in trade policy analysis is also made by Mayer, who states:

Political processes may involve the competition of interests, the operation of institutions, and the creation of symbolic constructs. Such processes may operate among nations at the international level, among groups in domestic political arenas, and among individuals situated at various locations in the political landscape. Theories that deal with only one cell of the matrix, while useful, are necessarily incomplete.²³

Mayer recommends situating individual action or strategy within a broader structural framework. He argues that, no matter how extensive the structural framework, individuals must remain at the heart of policy development because of the way the strategic pursuit of individual interests affects aggregate policy outcomes. In the process of trade policy creation, he argues, “[w]hat matter[s] most [is the actors’] subjective understanding of the landscape of interests and institutions in which they operat[e].”²⁴

Only a few trade policy analysts have chosen to situate strategic interaction between individuals within broader institutional or other structural frameworks. Among those authors who have acknowledged the role of individuals, many have brought on board elements of negotiation theory. For example Robert takes as her starting point the recognition of the fungibility of power and the potential for trade-offs between such

²² The case for bargaining theory is made in Gunnar Sjöstedt, “How Does Economic Theory Interrelate with Negotiation Analysis for Understanding International Economic Negotiation?” in Kremenjuk and Sjöstedt.

²³ Frederick W. Mayer, *Interpreting NAFTA: The Science and Art of Political Analysis* (New York: Columbia University Press, 1998), 105.

²⁴ Mayer, 106.

power sources as economic, military, and information resources. Robert distinguishes between structural resources such as market power, and behavioural resources such as the bargaining skill and tactics of state-appointed negotiators. Not only do both play a role in trade negotiations, she argues, “the right combination of power resources and tactics is necessary to produce a ‘win.’”²⁵ Using case studies from the NAFTA, Robert draws upon negotiation theory to explain why market power alone does not guarantee that the strongest players will prevail at the negotiating table.

Robert focuses on sectoral negotiations at the level of outcomes. By contrast, Cameron and Tomlin evaluate negotiating strategies across a range of policy development phases.²⁶ Similar to Robert, they argue that asymmetrical negotiations, where one party is much more powerful than the other, do not necessarily lead to asymmetrical outcomes but they take the argument a step further. Using a bargaining model to understand the likelihood of certain outcomes, the authors link decisions in the NAFTA process to each negotiating party’s propensity toward risk based on the actor’s shifting perceptions of how important the agreement is to their side at a particular stage in the process.²⁷ Changed perceptions of agreement importance are linked to changed strategies and ultimately changed outcomes. As a result, the authors paint a picture of policy formation that depicts more inherent dynamism than is captured by models that

²⁵ Maryse Robert, *Negotiating NAFTA: Explaining the Outcome in Culture, Textiles, Autos and Pharmaceuticals* (Toronto: University of Toronto Press, 2000), 12.

²⁶ Maxwell Cameron and Brian W. Tomlin. *The Making of NAFTA: How the Deal was Done*. Ithaca: Cornell University Press, 2000.

²⁷ Cameron and Tomlin, 28-32. Shifting perceptions of an agreement’s importance (also called subjective utility of non-agreement alternative) and choice of bargaining strategy will be discussed in Chapter 2 and 3.

explain outcomes on the basis of a single cause such as economic rationale or leadership preferences.

These examples from the existing trade policy literature point us in the direction of synthetic models that move with some flexibility among levels and units of analysis. The following section attempts to sketch out the nature of the Canadian trade policy process – the essential characteristics and dynamics– so that we might locate theories able to accommodate these elements.

The Nature of Trade Policy as an Analytical Subject

In tracing the evolution of a free trade agreement, one might ask such questions as:

Where did the provisions of a negotiated agreement come from? Who was responsible for them? Whose interests do they represent? How were decisions made about what terms were acceptable and what were not? Some of the answers are more readily deduced through reference to theories about the nature of the governance systems, institutional influences, policy networks, and other structural characteristics of the environment in which trade policy decisions are made. Other answers, however, are contingent upon subjective perception, chance, and the influence of changeable human behaviour. The dilemma in understanding trade policy content is that neither determinate, structural nor indeterminate, process theories are sufficient on their own. As much as we might know about the structural context that shapes and constrains decisions, we also need to know about actors – their methods of decision making, their interests, and the strategies they pursue to achieve these interests.

In 1977, Almond and Genco dealt with a version of the structure versus strategy dilemma as they examined whether political systems are governed by discernible laws such as exist in the natural world, or whether human systems are governed more by serendipity and chance.²⁸ Using the metaphor of clocks and clouds,²⁹ Almond and Genco argued that political activities are neither completely determinate (clock-like) nor completely indeterminate (cloud-like) but are governed by a system of flexible or plastic controls. Politics, they argue, are the product of “constant and intense interaction” between ideas, human behaviour and the physical world with human choice and decisions at the core of the system.³⁰

This observation presents a dilemma for policy analysts. Should they focus on those narrow areas of inquiry that exhibit more clock-like characteristics in the hope of building better theories or should they venture into the untidy clock and cloud mixture of real-world policy decisions and to try to separate out repeating patterns from random happenstance? What is the impact of the latter approach on theoretical rigour? Almond and Genco suggest that if the commitment is made to “explore and attempt to understand a given segment of empirical reality... [then the] means employed in pursuing this goal should be secondary: in ‘good’ science methods are fit to the subject matter rather than the subject matter being truncated or distorted in order to fit it to a preordained notion of ‘scientific method.’”³¹

²⁸ Gabriel A. Almond and Stephen J. Genco, “Clouds, Clocks and the Study of Politics,” *World Politics* 29:4 (July 1977).

²⁹ The metaphor is actually Karl Popper’s. In order to capture determinacy and indeterminacy in physical systems, Popper asks us to “imagine a continuum stretching from the most irregular, disorderly and unpredictable ‘clouds’ on the left to the most regular, orderly, and predictable ‘clocks’ on the right,” Karl R. Popper, “Of Clouds and Clocks: An Approach to the Problem of Rationality and the Freedom of Man,” in *Objective Knowledge: An Evolutionary Approach*, edited by K. Popper (Oxford: Clarendon Press, 1972), 210.

³⁰ Almond and Genco, 492.

³¹ Almond and Genco, 510.

Thus, if the goal is to understand something about a policy area that is both clock-like and cloud-like in nature, then it is necessary to take the world as one finds it, strike a balance between simplifying assumptions and meaningful variation, and accept that theoretical explanations will at times be partial, imperfect or fragmented.

Although now more than twenty-five years old, Almond and Genco's clocks and clouds metaphor has been picked up in more recent decision-making literature. In 1992, Gary Mucciaroni also called for balance between the hard regularities of defined causal relationships and the "recognition that (1) elements of chance, human creativity, and choice play a crucial role in politics, and (2) most regularities that are found will be 'soft' and at relatively low levels of generalization."³² This observation is particularly apt in the case of trade policy decisions because trade policy is shaped by both the subjectively-interpreted shifts in politics, national mood and individual choices, as well as by more determinate characteristics related to trade policy's technical and specialized nature, and the institutional, legal, and commercial regimes in which it operates.

Trade policy can encompass innumerable official actions ranging from the decision to modify a livestock inspection certificate, to the implementation of more than 500 pages of WTO negotiating text as a single, binding undertaking.³³ A trade agreement reflects the aggregation of tens of thousands of decisions made by individuals, firms, business organizations, labour unions, governments, and international negotiators. Some

³² Gary Mucciaroni, "The Garbage Can Model & the Study of Policy Making: A Critique," *Polity* 24:3 (Spring 1992) 459-60.

³³ World Trade Organization Members accepted more than 60 agreements and 550 pages of legal text at the end of the Uruguay Round in April 1994. With the exception of the plurilateral agreements on

of these decisions, such as the WTO Agreements, are highly contested and some, such as the livestock certificate, may be barely contested at all. The common characteristics of trade policy decisions, according to the metaphor provided by Almond and Genco, is that they bear the cloud-like characteristics of political preference and public acceptance of a provocative proposal, together with the decidedly clock-like characteristics of international regulations, conventions, market share, productivity levels, factor endowments, etc.

As a regulatory subject, trade policy shares its dual clock and cloud characteristics with most other areas of governmental concern such as environment, taxation, and transportation policy. However each policy area is marked by its own unique combination of determinate and indeterminate characteristics, making a particular policy area amenable to some types of theorizing but not to others.

The following section attempts expand upon some of the essential characteristics of trade policy decision making identifiable in some of Canada's major trade policy commitments including the WTO, NAFTA, and CUFTA. Three essential characteristics observable in these policy events are: (1) conditions of ambiguity and uncertainty; (2) overlap between domestic and international domains; and (3) differentiation among the domestic governance systems of the trading partners involved in agreement negotiations. The lenses provided by these categories will lead us in the direction of certain branches of theory and analytical frameworks and away from others.

trade in civil aircraft, government procurement, dairy products and bovine meat, these were accepted as a single undertaking, binding on all Members.

Characteristics of Trade Policy

1) *Ambiguity and Uncertainty*

Cohen, March and Olsen have called decision making in organizations “organized anarchy”³⁴ where ambiguity, i.e. many possible ways of interpreting the same phenomenon,³⁵ is rampant. This ambiguity may be the result of “goals that are unclear, technologies that are imperfectly understood, histories that are difficult to interpret, and participants who wander in and out.”³⁶ Canadian trade policy analyst and former GATT negotiator, Sylvia Ostry uses similar language to describe the twenty-first century trading system, which she calls “shrouded in a fog of uncertainty” brought about by powerful nations “groping along in a search for a new international order.”³⁷

Winham suggests that uncertainty in trade negotiations is the product of technological change related to an ever-increasing number of actors and interests involved in the process.³⁸ Proposals and outcomes tend to be ambiguous because it is nearly impossible to predict with certainty what the results of various actions will be. This creates “the difficulty of not having any ultimate guidelines by which to evaluate the results of negotiation.”³⁹

³⁴ Michael D. Cohen, James G. March and Johan P. Olsen, “A Garbage Can Model of Organizational Choice,” *Administrative Science Quarterly* 17:1 (1972).

³⁵ Definition found in Nikolaos Zahariadis, “Ambiguity, Time and Multiple Streams, in *Theories of the Policy Process*, edited by Paul Sabatier. Boulder: Westview Press, 1999.

³⁶ James G. March and Johan P. Olsen, “Preface,” in *Ambiguity and Choice in Organizations*, March and Olsen, eds. (Oslo: Universitetsforlaget, 1976), 8.

³⁷ Sylvia Ostry, *The Post-Cold War Trading System: Who’s On First?* (Chicago: University of Chicago Press, 1997), xviii.

³⁸ Gilbert R. Winham, “Negotiation as a Management Process,” *World Politics* 30:1 (October 1977), 92-3.

³⁹ Winham, 93.

Ambiguity and uncertainty are the product of the complex nature of the subject matter and the sheer number of subjects under negotiation. Technological change in the areas of production, consumption, and regulation makes ever-increasing knowledge demands on issue specialists.⁴⁰ For these reasons, predictions about trade policy outcomes tend to be uncertain and prone to highly subjective interpretation. Trade negotiators can never be completely sure if the agreement they reach internationally will be judged as a success at home by organized interests and political decision makers, even if the results of the final agreement meet or exceed the original negotiating mandate set by their government.

Also related to the influence of organized interests at the domestic level is the challenge for policy makers of how to harmonize a wide range of interests into coherent policy especially when an agreement creates both winners and losers among interest groups. For example, liberalization in certain products may simultaneously help domestic producers relying on imported inputs while harming the domestic manufacturers of competing inputs.⁴¹

Policy makers have two challenges. Their decisions must attempt to balance the competing material demands of organized interests but also appear responsive to the rhetorical debates over trade policy played out in the public domain that influence national mood. With respect to the latter, the view of the anti-globalization movement, for example, is that a free trade agreement is tantamount to “a Charter of Rights for large

⁴⁰ Winham, 92.

⁴¹ Not all trade policy is trade liberalization policy – trade protectionist policy is equally common if not more so, however, the case studies in this thesis focus on policies that are essentially liberalizing and examples are selected accordingly.

corporations... [that] clearly undermines the ability of countries and citizens to govern themselves.”⁴² The opposing view, largely emanating from the commercial sector, is that “freer trade stimulates economic vitality. ...From greater openness springs new opportunities that in turn hold the key to greater prosperity.”⁴³

Given the ambiguous nature of policy benefits, both real and rhetorical, and the complex system in which policy decisions are made, it is clear that rational theories of trade policy decision making are not sufficient. Rational theories are based on the assumption that decision makers have a clear knowledge of alternatives and consequences; that they are able to order preferences consistently based on expected utility of consequences; and that they have decision rules which guide the selection of a single alternative on the basis of its consequences.⁴⁴ When some or all of these assumptions fail to hold true, then other models are required to more accurately describe the reality of a decision environment.

Under conditions of uncertainty and ambiguity, preferences are seldom absolute, stable, consistent or precise. Preferences may be more the product of the *process* of decision making than of a rational calculation of expected utility.⁴⁵ Because limitations in time and resources preclude a full understanding of the nature of problems or the utility of the solutions, it is not possible for a decision maker to operate according to fully rational rules of decision making. Thus, theorists have suggested that the decision environment is better described as one of “bounded rationality” where a simplified model

⁴² Council of Canadians Website (<http://www.canadians.org>).

⁴³ Canadian Council of Chief Executives Website (<http://www.ceocouncil.ca/>).

⁴⁴ James G. March, “Theories of Choice and Making Decisions,” *Society* 21 (November-December 1982), 30.

of the situation is created by the actors involved based on their subjective views, past experience and present stimuli.⁴⁶

Beyond limitations on rationality, the existence of institutionalized rules and procedures is another factor influencing organizational decision making. Standard operating procedures are an effective, if unobtrusive, means of influencing decision outcomes within organizations.⁴⁷ Thus, within governments the instrumental authority of bureaucrats may at times rival the formal authority of political decision makers because the bureaucrat understands how the system works and how to accelerate or impede the progress of an initiative through the institutional machinery.

Because of the disorderly conditions under which decisions take place, choice requires that common problem definitions be reached among the groups and individuals responsible for the problem. "The rituals of choice tie routine events to beliefs about the nature of things."⁴⁸ These beliefs are often initiated and subsequently legitimated by symbolic action. The meaning of these symbols may be as broad as "the central ideology of a society committed to reason and participation" or as local as "the ego needs of specific individuals or groups."⁴⁹

Dominant definitions of what conditions constitute a problem and what problems are feasible contenders to be matched with policy solutions shift as groups of actors and

⁴⁵ March, 31.

⁴⁶ Charles Perrow, *Complex Organizations* (New York: Scott, Foresman, 1972), cited in John Forester, "Bounded Rationality and the Politics of Muddling Through," *Public Administration Review* 44 (January-February 1984). The concept of bounded rationality is usually attributed to James G. March and Herbert Simon, *Organizations* (New York: John Wiley and Sons, 1958).

⁴⁷ March, 36.

⁴⁸ March, 36.

⁴⁹ March, 37.

their responsibilities also change. “Individuals attend to some things, and thus do not attend to others... [T]he attention any particular decision receives can be both quite unstable and remarkably independent of the properties of the decision.”⁵⁰ The “loose coupling” between problems and solutions “is a consequence of a shifting intermeshing of the demands on the attention of the whole array of actors.”⁵¹

Despite the complications they add to the work of government officials responsible for trade policy, uncertainty and ambiguity under conditions of bounded rationality are facts of life and officials must develop strategies to deal with them. Some strategies are linked to clock-like institutional factors such as standard operating procedures and shared perceptions of what constitutes a problem or a solution. To exploit more cloud-like opportunities, actors also learn to take advantage of ambiguity and uncertainty to shape the perceptions of through “orchestrated actions” at various decision sites.⁵² In subsequent chapters, this thesis will examine the methods used by trade policy officials to harness streams of problems, alternatives, and politics to yield feasible outcomes.

Another theme related to ambiguity and uncertainty that will be further developed in this thesis is the linkage of problems and solutions as a loose or temporary coupling. At the level of bargaining, subjective perceptions are an important determinant of bargaining positions and strategies. As this thesis will explore, the multiple ways of interpreting future prospects and outcomes plays a central role in shaping bargaining strategies. At this stage, however, the central point to be made is that characteristics of

⁵⁰ March, 36.

⁵¹ March, 36.

ambiguity and uncertainty limit the usefulness of rational models and that these characteristics themselves play a role in shaping trade policy decisions.

2) Overlapping International and Domestic Decision Making Environments

International trade law specialist John H. Jackson proposes that the international and domestic trade policy domains are inextricably linked. "... [I]t is clear today that any coordinated activity of governments, especially in connection with economic affairs, requires a complex set of individual governmental actions by both international and national institutions."⁵³ This interlinkage between domestic and international processes creates interesting challenges for those attempting capture the decision dynamics occurring within the hybrid issue of trade policy.

The domestic roots of trade policy run too deep for it to be properly considered to be a subset of foreign policy decision making.⁵⁴ Early realist theory assumptions about unitary states exercising rational choice to maximize power in an anarchic international system⁵⁵ were relaxed when post Cold-War International Relations theory began to admit a wider range of influences on state behaviour in international diplomacy. Contemporary

⁵² Michael Watkins, "Negotiating in a Complex World," *Negotiation Journal* (July 1999), 250.

⁵³ John H. Jackson, *The World Trading System: Law and Policy of International Economic Relations*, Second Edition (Cambridge: MIT Press, 1998), 79.

⁵⁴ Kim Richard Nossal notes that trade policy has traditionally been considered an area of 'low politics' along with other policy areas such as fisheries and civil aviation. While these areas have transborder implications, they have not ranked among the high politics issues of "war and peace, of military and security affairs" that have been the central concerns of foreign policy analysis. See "Analyzing the Domestic Sources of Canadian Foreign Policy," *International Journal* 39:1 (Winter 1983-4), 9-10.

⁵⁵ Hans J. Morgenthau's six principles of political realism are in *Politics Among Nations: The Struggle for Power and Peace*, Fifth Edition (New York: Alfred A. Knopf, 1978), 4-15.

International Relations theories acknowledge such non-state actors as institutions, interest groups, and epistemic communities, and such non-military forms of power as economics, class, culture or ideas. However, despite the expansion, most foreign policy frameworks do not offer a way to capture the dynamics that take place at both the domestic and the international levels. To remedy this, Schoppa identifies the need for a third level of theorizing that is neither purely domestic nor purely international. In the area of international negotiations he notes:

International negotiations create opportunities for negotiators to pursue synergistic strategies aimed at reshaping politics in both their own and their counterparts' domestic arenas to make possible deals that would not have been possible in the absence of interaction between the two levels.⁵⁶

In case studies of trade negotiations, the link between domestic politics and international processes is clear. Meyerson, for example, finds that domestic variables such as political influence (executive and legislative) and shifting alliances (interest groups, firms, etc.) had a significant impact on agriculture negotiations in the Uruguay Round in terms of goals pursued, choice of strategies and tactics, and the shape of the final agreement.⁵⁷ Schoppa takes this further, arguing that not only does reciprocal interaction take place between a state's international negotiators and its domestic actors but that one state may also attempt to influence the internal domestic processes of the

⁵⁶ Leonard J. Schoppa, "Two-Level Games and Bargaining Outcomes: Why *Gaiatsu* Succeeds in Japan in Some Cases But Not Others," *International Organization* 47:3 (Summer 1993), 353-4.

⁵⁷ Christopher C. Meyerson. "Domestic Politics and International Relations in Trade Policymaking: The United States and Japan in the GATT Uruguay Round Agriculture Negotiations," *Columbia International Affairs Online Conference Proceedings* (March 2000) (www.ciaonet.org/isa/mec02/).

other as part of its overall negotiation strategy.⁵⁸ This form of cross-border advocacy will return later in the analytical framework of this thesis.

Trade policy occupies an analytic grey area that is an awkward fit in either domestic or international policy frameworks. What we call ‘international’ trade policy is the result of the complex domestic policy processes of one state reacting to the equally complex domestic processes of another state. They clash and combine in an external negotiating forum and the results are returned to the domestic level for acceptance or rejection – and most often transformation as well. In order to capture this pendulum-like dynamic, it is important that the line between domestic and international analysis be minimized as far as possible, especially where it serves as an artificial boundary that is more the product of theoretical convention than practical necessity.

Increasingly, there is a demand among analysts for the use of common tools to explain common phenomenon regardless of whether the activity takes place at the domestic or international levels. For example, Winham has identified similar management functions occurring at both the international and domestic levels of trade policy decision making. He notes:

Negotiation today is an extension of the policy process from the domestic to the international arena, and negotiators behave in a manner more akin to that of national bureaucrats than of classical diplomats. The distinction between negotiation and management is blurring.⁵⁹

One of the management demands being made on trade officials is to refine proposals originating at the domestic level through negotiations with external trading

⁵⁸ Schoppa examined the way the United States attempted to influence the nature of Japanese domestic participation and the process of alternative specification in Japan’s domestic policy processes.

⁵⁹ Winham, 99.

partners. The acceptance or rejection of proposals at the external level shapes the counter-proposals that are returned domestically for consideration. This ongoing process of policy refinement through sequential episodes of domestic and international bargaining and deliberation is one of the central dynamics that will be explored in this thesis.

Reciprocal dynamics between domestic preferences and external negotiations are also the driving force of two-level games theory. In 1988, Robert Putnam's seminal article on two-level games launched domestic politics into mainstream international relations theorizing in a way that enabled more practical policy analysis.⁶⁰ Whereas traditional concepts of international diplomacy depict state agents acting in the 'national interest' without much question as to the origins of these interests, two-level games recognizes the "inevitable domestic conflict about what the 'national interest' requires."⁶¹

Not only are the international and domestic realms connected, say two-level theorists, but policy actors can also influence activities at one level to shape outcomes at the other. Putnam's model, which itself draws heavily on pluralism/public choice dynamics, depicts groups at the national level putting pressure on government to adopt favourable policies. Politicians, in turn, seek to maximize their power by building coalitions among domestic groups. The inevitable result at the external bargaining table is

⁶⁰ Robert D. Putnam, "Diplomacy and Domestic Politics: the Logic of Two-Level Games," *International Organization* 42 (Summer 1988); see also *Double-Edged Diplomacy*, Peter B. Evans, Harold K. Jacobson, and Robert D. Putnam, eds. (Berkeley, University of California Press, 1993). Helen Milner noted that there were various attempts in the late 1960s to link foreign policy with domestic variables but they were pushed aside by structural realism as the dominant IR theory in the United States until the mid-1980s; see *Interests, Institutions, and Information* (Princeton: Princeton University Press, 1987), 3. Robert Keohane and Joseph Nye's model of complex interdependence, developed in the mid-1970s, did incorporate domestic interests into an IR model. However, the model was more appropriate to discussions of macro-level regime change than micro-level policy development and the authors themselves acknowledged that the complexity of their model necessitated an underdeveloped theory of domestic politics and interest formation. See *Power and Interdependence*, Second Edition (New York: HarperCollins Publishers, 1989), 257.

that “governments seek to maximize their own ability to satisfy domestic pressures, while minimizing the adverse consequences of foreign developments” on domestic stakeholders.⁶²

Players of the two-level game are faced with a large number of strategic considerations. According to Putnam, “Any key player at the international table who is dissatisfied with the outcome may upset the game board, and conversely, any leader who fails to satisfy his fellow players at the domestic table risks being evicted from his seat.”⁶³ The two-level reciprocity creates both difficulties and opportunities for negotiators because what they do affects politics at home and abroad.⁶⁴ “On occasion, clever players will spot a move on one board that will trigger realignments on other boards, enabling them to achieve otherwise unattainable objectives.”⁶⁵

As a medium-sized, trade-dependent country situated next to a much larger, much less trade-dependent neighbour, the linkages between economics and politics, and between international processes and domestic outcomes hit close to home for Canada. Consistent with the suggestion in two-level game theory that international negotiations might be used for some motive extrinsic to the formal negotiations⁶⁶, analysts have

⁶¹ Milner, 4.

⁶² Putnam, 434.

⁶³ Putnam, 434.

⁶⁴ Odell (2000a), 216.

⁶⁵ Putnam, 434.

⁶⁶ Putnam (1988), 434. The double-edged nature of negotiations with respect to altering domestic expectations is articulated more clearly by Andrew Moravcsik in the introduction to *Double-Edged Diplomacy* where he states, “The phenomenon most distinctive of the two-level games approach is what Putnam called *synergy* in which international actions are employed to alter outcomes otherwise expected in the domestic arena.”(26)

argued that various Canadian strategies at the GATT⁶⁷, the CUFTA⁶⁸, and the NAFTA⁶⁹ can be linked to domestic reform goals pursued under the cover of an international commitment. As Winham argues:

a free trade negotiation offer[s] a rationale for initiating and continuing domestic economic reform that would have been much more difficult to effect politically without the crutch of a bargained relationship with a larger trading partner.⁷⁰

Given this close association between domestic and international processes and objectives, it is essential that the tools of analysis employed for Canadian trade policy not only accommodate the two levels of analysis but also allow for the reciprocal dynamics described by Schoppa's third level of theorizing.

3) Nature of Domestic Governance Institutions and Actors

A third important characteristic of Canadian trade policy formation is related to the nature of domestic governance institutions and actors. Policy decision making in Canada can be likened to a top-down exercise of power.⁷¹ Because the legislative and executive branches of government are fused in the Westminster model of parliamentary democracy,

⁶⁷ Winham (1977), makes this argument in his reference to the Tokyo Round of GATT negotiations, 94.

⁶⁸ Bruce Doern and Brian Tomlin, *Faith & Fear: The Free Trade Story* (Toronto: Stoddart, 1991), 290-2. A detailed account of the domestic implications of free trade is found in Bruce Campbell, "Restructuring the Economy: Canada into the Free Trade Era" in *The Political Economy of North American Free Trade*, Ricardo Grinspun and Maxwell A. Cameron, eds. (Montreal: McGill-Queen's University Press, 1993).

⁶⁹ Concerns about investment diversion to the United States, frequently called the hub-and-spoke rationale for NAFTA were elaborated by Richard Lipsey, "Canada at the Free Trade Dance: Wallflower or Partner," *Commentary* 20 (August 1990) Toronto: C.D Howe Institute; and Ronald Wonnacott, "US Hub-and-Spoke Bilaterals and Multilateral Trading System," *Commentary* 23 (October 1990) Toronto: C.D Howe Institute. See also Cameron and Tomlin, 25.

⁷⁰ Gilbert R. Winham, "NAFTA and the Trade Policy Revolution of the 1980s: A Canadian Perspective." *International Journal* XLIX (Summer 1994), 485.

once the Prime Minister and Cabinet have decided on a particular course of action, the path to implementation is relatively free of political impediments, especially with a majority government. And, as David Docherty points out, it is both the fusion of powers and the relative inexperience of Canadian parliamentarians caused by high turnover at election time that contributes to Canada's more centralized decision-making structure.⁷²

Within Cabinet, power dynamics are governed by party solidarity. Therefore, the disposition of the Prime Minister on a particular issue sets the course for the rest of Cabinet. Solidarity is enhanced by the fact that ministers seldom interfere in areas of responsibility held by their colleagues. The bottom line, according to Savoie, is that "once a decision has been recorded, all ministers, powerful or not, are expected to march to the same beat, or at minimum to refrain from openly challenging [the decision] in public."⁷³ Nevertheless, it should also be emphasized that Cabinet decision making is still an incremental and deliberative process that takes on board input from stakeholders in an attempt to balance the public good with political realities.⁷⁴

Compared to Canada, trade policy making in the United States could be considered a bottom-up decision making process because the separation of powers makes some degree of opposition from the legislature practically inevitable on every issue. In trade matters, the Executive has the authority to negotiate trade agreements for the United States, but Congress must approve them. This requires considerable accommodation

⁷¹ See Donald Savoie, *Governing from the Centre: the Concentration of Power in Canadian Politics* (Toronto: University of Toronto Press, 1999).

⁷² David C. Docherty, *Mr. Smith Goes to Ottawa* (Vancouver: UBC Press, 1997).

⁷³ Savoie, 50.

⁷⁴ This point was emphasized by veteran Canadian Member of Parliament Don Boudria (Author's interview August 23, 2004).

between the two branches of government. Even though they may differ on what the balance may be, the objective for Congress and the White House is to achieve a politically acceptable balance between international trade objectives and US regional and sectoral economic interests. This accommodation tends to be worked out gradually throughout the negotiation process but is seldom without rancour.⁷⁵

In order to avoid upsetting the balance between US domestic interests and internationally negotiated commitments, Trade Promotion Authority (TPA)⁷⁶ serves as an institutionalized agreement between Congress and the President about how trade negotiations will be handled. Under Trade Promotion Authority, members of Congress provide the Executive with a specific, time-limited mandate to negotiate certain agreements. Once an agreement is negotiated, Congress agrees to accept or reject the agreement as a whole without amendment, again within specified time period. Although TPA does require that the Executive consult with various congressional committees throughout the process, trade negotiators must also contend with the spectre of congressional rejection of the final result during the entire negotiation process.

In Canada, no such formal instrument of coordination between the branches of government is required. However, the support of the Prime Minister is vital to trade

⁷⁵ Both perspectives of this dynamic are presented in Robert E. Baldwin, "U.S. Trade Policies: The Role of the Executive Branch," and I.M. Destler, "Congress, Constituencies, and U.S. Trade Policy," both in *Constituent Interests and U.S. Trade Policies*, Alan V. Deardorff and Robert M. Stern, eds. (Ann Arbor: University of Michigan Press, 1998). See also Office of the United States Trade Representative (<http://www.ustr.gov/index.html>); and Jon E. Huenemann, "On the Trade Policy-Making Process in the United States," *The Trade Policy-Making Process – Level One of the Two-Level Game: Country Studies in the Western Hemisphere* INTAL – ITD – STA Occasional Paper 13 (Buenos Aires: Inter-American Development Bank, 2002).

⁷⁶ Formerly known as Fast Track Authority.

policy decisions. Without it no serious initiative would survive.⁷⁷ Even though the Minister of International Trade has full decision-making authority, “the prime minister can intervene in any issue – big or small – if he feels his judgement is required.”⁷⁸ In the United States the role of the President is not as hands-on as that of his Canadian counterpart because the President is often reluctant to spend political currency on trade matters that Congress may later exact a payment for on other issues.⁷⁹ At the same time, although individual members of Congress may delay or divert the trade policy process, they are unlikely to halt a major initiative without the security of a significant coalition of like-minded allies.⁸⁰

While regional representation in the United States is exercised mostly through Congress, in Canada, the provinces are closely involved in the federally-led trade policy process. The federal government has constitutional authority for the negotiation of trade agreements but recognizes that it is difficult if not impossible to implement any legislation touching on commercial matters without provincial cooperation.⁸¹ Since 1973, provincial governments have become much more knowledgeable about international

⁷⁷ This point is made by Savoie, 46-67. See also the review of Savoie by Herman Bakvis in *Isuma* 1:1 Spring 2000 (162-3); and Richard Simeon, *Federal Provincial Diplomacy: The Making of Recent Policy in Canada* (Toronto: University of Toronto Press, 1972).

⁷⁸ Savoie, 57.

⁷⁹ Stephen D. Cohen, *The Making of United States International Economic Policy: Principles, Problems and Proposals for Reform* (Westport: Praeger, 2000), 195.

⁸⁰ Cohen, 195-6.

⁸¹ Federal-provincial cooperation in the implementation of international trade agreements should not be treated as a foregone conclusion. While constitutional and functional interdependence are a given, both provincial involvement in federal deliberations and provincial implementation of a federally negotiated treaty have proven to be problematic and cooperation relies on the success of political bargaining. See Douglas M. Brown, “The Evolving Role of the Provinces,” in *Canadian Federalism: Meeting Global Economic Challenges*, Douglas M. Brown and Murray G. Smith, eds. (Halifax: Institute for Research on Public Policy, 1999).

trade issues and how they affect their interests.⁸² As a result of increased information and expertise the provinces now have greater negotiating resources when dealing with the federal government on trade matters.

The provinces can leverage significant weight to build consensus for or against an agreement. They are most powerful as a bloc but individual provinces with large commercial sectors such as Ontario and Quebec carry a lot of weight on their own. A bargaining disadvantage for the provinces is the extended length of time required to achieve consensus among all provinces and territories and the likelihood that only the most non-controversial decisions will be accepted unanimously.⁸³

Interest groups from business, labour and broader societal interests also have a history of trade policy involvement on both sides of the border. However, as the case studies in this thesis will show, the extent of private sector and civil society involvement is a function of these groups' perception of an issue's importance (and consequently their willingness to invest resources to shape policy development), the overall weight of organized interests for or against a proposal, and also of the extent to which the government opens the process up to public participation.

In the relatively more open trade policy environment that exists in Canada today, extensive consultation takes place between the government and interest groups in order to

⁸² The success of the early tariff-cutting rounds in the GATT cleared the way for consideration of non-tariff barriers during the Tokyo Round (1973-1979). The provinces were aware that changes to technical barriers, government procurement, subsidies and other NTBs could materially affect their interests and a concerted effort was made to expand and enhance their role in trade negotiations. By 1977 the Continuing Committee on Trade Negotiations (CCTN) was formed as a mechanism to coordinate consultations with industry and the provinces. The CCTN would evolve to generate a broad range of formal consultative mechanisms in subsequent negotiations, discussed in more detail in Chapters 5 and 6. See also Brown, 91-7.

⁸³ Simeon, 295-6.

work out the balance between the trade interests of key private sector stakeholders and the broader political considerations of the agreement (including non-economic concerns such as foreign and social policy implications). For federal officials, the objective is to first determine if sufficient business support exists for a free trade agreement and, if so, whether that support can be counted on as a shield against political opposition that can be sustained through to the end of the process. As well, during public consultation, trade officials have the opportunity to refine their understanding of Canada's business interests and future prospects, helping them to determine the optimal mix and nature of sectoral interests to be pursued in a free trade agreement.⁸⁴

Another essential feature of decision making in the Canadian parliamentary system is the political-bureaucratic division of labour. As Winham observes, "In most issue-areas, and certainly in commercial policy, the actual making of policy is a bureaucratic activity, while the politics of the day are carried on at a symbolic level."⁸⁵ Every day, bureaucrats operate as what John Kingdon calls "policy entrepreneurs", willing to invest time and resources in the establishment of new structures and processes.⁸⁶ Bureaucratic policy development "is essentially the exercise of creativity in a bureaucratic environment, and it is designed to achieve information generation, political control, and co-ordination in the activities of existing bureaucracies."⁸⁷

⁸⁴ This observation was made by Claudio Ramirez, International Trade Canada, Trade Policy Consultations and Liaison Division (EBC), interviewed in August 2004.

⁸⁵ Gilbert R. Winham, "Bureaucratic Politics and Canadian Trade Negotiation," *International Journal* 15 (1978-9), 84.

⁸⁶ John W. Kingdon, *Agendas, Alternatives, and Public Policies*, Second Edition (New York: HarperCollins, 1995), 180-1.

⁸⁷ Winham (1978-9), 85.

Individual initiative is constrained by the institutional parameters of what policy issues can and cannot be pursued and how successful various initiatives are likely to be. As was suggested earlier in this chapter, bureaucrats, who themselves are constrained by these structures, are often the architects of the very system in which they operate. As such, they know where the greatest constraints lie and how the greatest opportunities may be exploited. Bureaucratic know-how establishes the scope of the issue – providing a range of alternatives and the background analysis to support or oppose them – while political leadership drives the process of alternative selection. Politicians may pull an idea from a moving stream of proposals but it is the bureaucratic push at the other end that is often key to an idea's success.

These observations should not be taken to suggest a tyranny of the bureaucracy in Canadian policy matters. On the contrary, Sharon Sutherland argues that the Canadian form of parliamentary government is “ideally suited” to direct and control the bureaucracy so that public policy will maximally reflect the wishes of both the elected government and the electorate while at the same time providing the bureaucrats with the autonomy they need to generate innovative and effective policy proposals.⁸⁸

In Canada, a public official at the level of a deputy or associate deputy minister is called upon to perform a number of distinct and overlapping functions: to administer based on knowledge and experience; to create policy within legitimate fields of authority;

⁸⁸ Sharon Sutherland, “The Public Service and Policy Development,” in Michael M. Atkinson, ed., *Governing Canada: Institutions and Public Policy* (Toronto, Harcourt Brace Jovanovich, 1993), 81. Other important works on the role of bureaucrats in Canadian policy making include Savoie's *Governing from the Centre* (cited above); Colin Campbell and George Szablowski, *The Superbureaucrats: Structure and Behavior in Central Agencies* (Toronto: Gage, 1979); Colin Campbell, “Review Article: The Political Roles of Senior Government Officials in Advanced Democracies,” *British Journal of Political Science* 18 (1988); and the historical snapshot provided by Richard D. French, *How Ottawa Decides: Planning and Industrial Policy-Making 1968-1980* (Ottawa: Canadian Institute for Economic Policy, 1980).

and to dispense policy advice as well as political advice to Cabinet ministers. The relationship built around these functional tasks is one in which the bureaucrat plays a vital role as both issue and system specialist, helping the politician deal with continual change.⁸⁹ Nevertheless, as Sutherland notes, the principles of democratic accountability are maintained by the fact that the bureaucrat is never more than a co-author of the solutions he or she advances.⁹⁰ Career officials describe their contribution to policy making as one of providing expertise and experience but one tempered by a recognition that the final responsibility for a policy decision falls on the shoulders of the politician.⁹¹

In the United States, the political-bureaucratic division of labour is similar but not identical, primarily because in Canada the bureaucracy is composed of career public servants while senior US officials are political appointments.⁹² Thus, partisanship is likely to play a stronger role in US policy advising, although the balance between political and technocratic influence differs depending on the department, the public visibility of the issue, and its political importance.⁹³

Perhaps the greatest area of divergence with respect to Canada-US trade policy formation is the relative importance of international trade agreements to each state's overall economic profile. As a large economy with exports accounting for a relatively low share of GDP, external trade agreements are relatively less important to the United

⁸⁹ This message is articulated in a speech by former Deputy Minister Arthur Kroeger to the Empire Club in Toronto, February 8, 1990.

⁹⁰ Sutherland, 94.

⁹¹ This point was brought up repeatedly by the Canadian trade officials, in current service and retired, who were interviewed for this thesis.

⁹² It should be noted, however, that there is still an institutional memory preserved at slightly lower levels of the bureaucracy and in organizations on the margins of government.

⁹³ Cohen, 54-5.

States than they are to Canada, which has a medium-sized economy, and a relatively high proportion of GDP coming from exports.

TABLE 1: CANADA AND THE UNITED STATES – RELATIVE TRADE DEPENDENCE			
(Millions of current US dollars)	1964	1984	2000
Canadian Goods Exported to US	4,128	82,796	240,645
Canadian Goods Exported to Rest of World	1738	14,197	34,539
Canadian Exports to US as % of All Exports	70.4 %	85.4%	87.4%
US Goods Exported to Canada	4,754	46,524	174,615
US Goods Exported to Rest of World	21,828	171,365	597,285
US Exports to Canada as % of All Exports	17.9%	21.4%	22.6%
Canadian GDP	48,074	343,481	703,913
Ratio of Cdn Exports to US to Cdn GDP	1:12	1:4	1:3
US GDP	646,415	3,724,800	9,963,100
Ratio of US Exports to Canada to US GDP	1:136	1:80	1:57

Source: *Historical Statistics of Canada*, Second Edition; IMF, *International Financial Statistics* – Various Years; OECD *National Accounts* – Various Years.

Even though Canada and the United States have long been each other's largest trading partner, Table 1 illustrates that Canada has much more economic vulnerability vis-à-vis the bilateral trading relationship than its southern neighbour. In 1964, prior to the negotiation of the Auto Pact, slightly more than 70 percent of Canadian exports were bound for the United States while less than 18 percent of US exports came to Canada. Similarly, in 1984 prior to the negotiation of the Canada-US Free Trade Agreement, more than 85 percent of Canadian exports went to the US while fewer than 22 percent of American exports went northward. Not only is Canada more dependent on US trade than

the United States is on Canadian trade, but Canada also depends on external trade for a larger share of its GDP. For example, in Table 1 we see that while one-fourth share of Canadian GDP was tied to US-bound exports in 1984, only one-eightieth of US GDP came from Canada-bound exports.

While the bilateral trading relationship has historically been of some importance for the United States' economy, for Canada it has been essential. The relative difference in the importance of external trade to national economic performance imposes different demands on national policy makers in Canada than in the United States in terms of the priority accorded to bilateral trade relations. In summary, different perceptions of the importance of bilateral trade, combined with differences in institutional decision-making systems must be taken into account by any theories chosen to explain Canada's trade policy relations with the United States, especially if we are to speculate on how these differences influence bilateral negotiations.

Summary – What is missing and what is needed

The characteristics of trade policy lead us toward some theories and away from others.

Trade policy formation under conditions of ambiguity and uncertainty leads us away from strictly rational theories and suggests that there may be opportunities for actors to exploit ambiguity and uncertainty in order to frame issues in favourable ways. Thus theories that allow for strategic use of uncertainty and ambiguity in forming perceptions of utility of outcomes should be further explored.

An additional level of complexity is imposed by the fact that while we are interested in the domestic development of trade agreements, this policy area also demands attention to external processes beyond national borders. Therefore theories

attentive to only a single level of analysis are not appropriate. As this chapter suggests, there may be some merit in theoretical approaches similar to two-level games that show how activities at one level can be used strategically to influence the other. Similarly, it may be advisable to try to integrate domestic and international theories, provided that a case can be made for their compatibility.

As well, Canadian trade policy could not be explained without a theory that is consistent with decision making in the parliamentary system. However, because the United States is Canada's largest trading partner and the focus of both case studies in this thesis, the selected model must also accommodate the special characteristics of the US presidential-congressional system. It would also be particularly helpful if the chosen theory were able to accommodate possible effects when an agreement is more important to one negotiating partner than other.

Finally, the model must move beyond strictly state-based or systemic analysis and allow for the influence of individuals who may claim authority by virtue of position or technical know-how. While some of this individual influence will be part of the exercise of standard operating procedures within government institutions, some will be the result of strategic action and entrepreneurship on the part of the individual. It is important that theorizing about action at the individual level not be limited by centralized, single-decision maker assumptions and consider instead how individuals and groups can come together within coalitions and policy communities to strike internal bargains that have an impact on outcomes.

With the combined characteristics of ambiguity and uncertainty, domestic and international overlap, and variability at the state and individual levels, what is called for

is a theory of decision making that is consistent with the fact that a final policy output is the result of multiple antecedent decisions. These decisions must be situated within a larger structure that allows for institutional and behavioural influences on decision making, that shows the linkage between decisions, and traces the lineage between decisions and the final policy content. Many of these characteristics of structure, fluidity, and multiple sites of influence are captured by John Kingdon's multiple streams model. In the following chapters, multiple streams will be evaluated against other decision making theories and subsequently developed for application to Canadian trade policy cases. Because of the need to incorporate the dynamics of bargaining into trade policy analysis, this thesis will attempt to introduce new theoretical propositions from bargaining theory to multiple streams. Chapter 2 will evaluate the possibility of transforming multiple streams in this way. Meanwhile, the following section will explain the methodology used in this thesis in greater detail.

Methodology

The objective of this analysis is to develop a model of domestic trade policy decision making that also explains the rationale for bilateral bargaining positions and the conditions under which those positions may change. The substantive portions of this thesis are drawn from interviews with more than twenty trade bureaucrats involved in the CUFTA and Auto Pact process from the United States and Canada.⁹⁴ Key interviews were also provided by former Canadian government ministers and former Prime Minister

⁹⁴ All interviews conducted in accordance with Carleton University Research Ethics Committee guidelines and informed consent procedures.

Brian Mulroney. A significant source of insight into the Auto Pact and CUFTA processes comes from more than forty hours of interviews with Simon Reisman, the chief Canadian negotiator for both trade policy cases. Interview material in this thesis is supported by extensive archival and documentary sources from published documents and archival holdings - both generally available sources and material that was previously unreleased.⁹⁵

The Utility of Case Studies and the Role of Process Tracing

In the Popperian view, theories cannot ever be proved but they can be disproved through quasi-experimental analysis. Case studies are considered to be the weaker analytic cousin to quasi-experimental methods by analysts seeking to build better theory, but for those looking for new insights into a policy area or to refine existing hypotheses about a sphere of social behaviour, case studies can be very rewarding.

The usual method for case study analysis is to compare outcomes within cases or between cases and to try to relate different outcomes to the presence of differing initial conditions, or similar outcomes to the presence of common initial conditions.⁹⁶ This most similar / most different approach (also called the congruence method) utilizes logical elimination to “solve” the cases for important independent variables. The congruence method helps to explain the reasons for differences between similar case studies (or the reasons for similarities between disparate cases). However, the objective in this thesis is

⁹⁵ In addition to granting extensive interviews, Simon Reisman also provided access to his private papers housed at the National Archives of Canada.

⁹⁶ Alexander L. George and Timothy J. McKeown, “Case Studies and Theories of Organizational Decision Making,” *Advances in Information Processing in Organizations* 2:21 (1985), 24.

to isolate a number of similarities between cases and to explain the relationship among these common elements. Consequently, a method of process tracing is adopted to do so.

Process tracing refines and extends the congruence approach to case studies of decision making. It examines the “process by which initial conditions are translated into outcomes”⁹⁷ by tracing “a stream of behaviour through time.”⁹⁸ Any explanations of processes must account not just for a single phenomenon, but for a series of linked behaviours and actions.⁹⁹ This makes it an ideal lens for processes of trade policy decision maker that are characterized as a series of sequential and inter-connected decisions.

The purpose of process tracing is to attempt to determine:

- What stimuli actors respond to;
- The shape of the decision process formed by these stimuli;
- The actual behaviour of actors in response to stimuli;
- The effect of various institutional arrangements on actor attention, processing, and behaviour; and
- The effects of other variables on attention, processing and behaviour.¹⁰⁰

Analysts engaged in process tracing attempt to both reconstruct actors’ definitions of the situation and develop a theory of action.¹⁰¹ The process of constructing an explanation is compared to the process of constructing a network or web. “The researcher

⁹⁷ George and McKeown, 35; also Stephen Van Evera, *Guide to Methods for Students of Political Science*, (Ithaca: Cornell University Press, 1997), 52.

⁹⁸ George and McKeown, 36.

⁹⁹ George and McKeown, 36.

¹⁰⁰ George and McKeown, 35.

assembles bits and pieces of evidence into a pattern; whether a piece is to be changed or added depends on whether the change fits with what already has been constructed, and whether it fits with the web's structure."¹⁰² Because of the integrated view process tracing requires, it is ideally suited for an analysis attempting to reconcile multiple levels of analysis and processes that are both structured and fluid.

The process tracing methodology requires us to work backwards through the decision process to identify significant events and determine whether their effect was to move the deliberation process toward or away from a particular goal such as a decision or a negotiation settlement.¹⁰³ At its core, process tracing evaluates actors' reaction to stimuli. Therefore, it is not necessary for the researcher to have perfect information on all possible factors affecting policy, only to reconstruct a reasonably accurate account of the stimuli that the actors themselves attended to during decision making.¹⁰⁴ This type of research is assisted by the fact that the communication between actors is often available to researchers through documentary evidence or recollections of participants.¹⁰⁵

The challenge posed by the process-tracing methodology, however, is that even though it offers the possibility of explanations that are more powerful than those yielded by congruence procedures, the data requirements for the case studies are also much greater:

¹⁰¹ George and McKeown, 35.

¹⁰² George and McKeown, 36.

¹⁰³ The process tracing approach to tracking the progress of negotiations will be revisited in the analytical framework of this thesis.

¹⁰⁴ George and McKeown, 36.

¹⁰⁵ George and McKeown, 35.

Documentation about the process by which inputs are converted to outputs [in the perceptions of decision makers] requires more evidence than does simply noting the inputs and outputs and treating what lies between them as a black box.¹⁰⁶

In order to be effective, process tracing requires detailed historical data about cases – and in particular what was going on in the minds of decision makers - which usually requires detailed research and interview to ascertain. Fortunately, considerable primary and secondary material has been located for the case studies in this thesis, including interviews with key officials who discussed their perceptions and beliefs at the time they were working on the policy. As a result, it has been possible to put together sufficient evidence to trace the linkage of events, perceptions, and responses through the process of policy development from agenda setting to ratification. The process tracing methodology also helps to ascertain whether the behaviour predicted by theory correlates with actual outcomes and helps to identify anomalous outcomes as well. As well, by working through two case studies, the tentative conclusions derived from the first case are able to be verified and refined through the examination of the second case.

Rationale for Case Studies

The 1965 Automotive Products Trade Agreement and the 1989 Canada-United States Free Trade Agreement are useful cases for exploring the domestic foundations of trade agreements as well as the interplay between domestic and international negotiations. They serve to illustrate how the strategies used by officials and their political leaders to

¹⁰⁶ George and McKeown, 41.

build consensus for agreements at home are often similar to the strategies used in formal negotiations with external trading partners.

Analyses of international negotiations tend to overlook the important work that goes on domestically. Similarly, studies of international negotiations often interpret them as foreign policy exercises, missing the role of individuals and domestic factors in bringing states to international bargaining tables and shaping the behaviour of negotiators once they get there. This thesis attempts to break down the barriers between formal negotiation and informal coalition building and between domestic and international processes. It seeks to present the development of a trade agreement (from domestic deliberation through negotiations to political ratification) as part of a larger continuum in which individual commitment and choice of strategy interact with more structural and determinate influences.

There are important similarities between the two case studies: both are bilateral agreements negotiated between Canada and the United States; Simon Reisman was chief negotiator for the Canadians in both cases, and each one had trade liberalization as its central objective. One of the primary differences between the cases is the fact that one is a sectoral agreement and the other is a comprehensive free trade agreement. This difference affects the scope of interests to be taken into account because the latter case incorporates a broader range of actors and greater complexity. However, this difference is actually an analytical advantage in that we can identify essential dynamics and processes in the earlier, simpler case and attempt to trace them through the more complicated details of the latter case.

In addition to differences in scale, the two policy initiatives are separated by more than two decades. We can expect that differences in public attitudes will have come about during the intervening period. We also know that certain changes to government decision making processes and structures took place during the years separating the two agreements. For example, public visibility and media coverage played a greater role in the trade policy of the 1980s than was the case in the 1960s. Fortunately, as will be discussed in detail in Chapter 2, multiple streams theory is able to accommodate such differences in decision-making structures – either between different states, or within the same state at different times, through the flexibility accorded by stream dynamics. As well, the analytical chapters of this thesis will attempt to identify differences that are the product of different policy eras as they occur and speculate on the effect that these differences had on decisions or decision makers.

Returning to the previous discussion of case study methodology, the two cases selected, the Auto Pact and the CUFTA, are neither most similar nor most different in an analytical sense. While they are quite similar, as outlined above, it would be possible to select another single sector case to compare to the Auto Pact, such as the failed sectoral initiatives of the Trudeau era, or another multi-sector case to compare to the CUFTA, such as the NAFTA. As has been outlined in the description of process tracing methodology, however, strict case study similarities are not necessary in order to draw inferences about causality. What is necessary is that one be able to identify multiple instances of similar conditions precipitating similar events across cases and that there be a discernible path between events leading to an end result across cases. The key similarities between these two cases are that they involved the same negotiating partners.

that they both involved market opening negotiations, and that both involved extensive domestic and bilateral deliberation before a resolution was reached. Furthermore, because process tracing relies on actors' perceptions of circumstances and their reactions to these perceptions it is helpful that primary actors are drawn from the trade policy community and that the chief Canadian negotiator is the same in each. Even though the passage of decades will have changed some of the institutional and material circumstances influencing actors, it is argued here that the major cognitive characteristics of trade officials – core values and beliefs – will have remained relatively constant over time.

As mentioned previously, a central objective of process tracing is to attempt to assemble a pattern of relationships and responses to develop a “theory of action” for how processes unfold. The linkage between the Auto Pact and the CUFTA is an important one because one was a precursor to the other. The bilateral liberalization gains made in 1965 proved that such an agreement was possible when the proposal for comprehensive free trade resurfaced two decades later. In any event, while there are important linkages between the two cases, they are not the only cases that could be selected for process tracing analysis. The concluding chapter of this thesis will provide a more detailed profile of the type of case study for which the analytical framework in this thesis could be effectively utilized. Consistent with Popper's views on falsifiability, the concluding chapter will also discuss case studies for which the framework would *not* be appropriate.

Conclusion

The position taken in this thesis is that no one model can take us through the process of trade policy development from agenda setting to the implementation of the final text of a negotiated trade agreement, but a synthetic approach that utilizes two or

more compatible theories provides a useful tool for moving from structural factors to strategic responses and back again. Because trade policy is characterized by domestic and international bargaining, it cannot be contained solely within domestic policy processes. It occupies the analytical netherworld between domestic policy and international relations. The contribution of this thesis will be to systematically evaluate the processes and dynamics taking place domestically and internationally and to explore the influence they have on each other within this specialized area of decision-making.

One of the novel elements of this analysis is the specific inclusion of bargaining within a domestic decision-making model. The literature survey in this chapter laid the foundation for the addition of a bargaining model to domestic decision-making theory. This addition makes particular sense because bilateral or multilateral bargaining is central to most trade policy cases. An important qualification that this thesis seeks to emphasize, however, is that not all bargaining takes place at the formal bilateral or multilateral table. Domestic coalition building also plays an important role in shaping policy outcomes. This notion of bargaining within governments is by no means a new idea. In 1955 Lindblom argued that bargaining represents:

a residual category of controls in government that are not accounted for in the sometimes explicit but commonly implicit hierarchical models of government. ... The techniques of bargaining, though they are to be found everywhere in and out of government, play a strategic role in creating useful network multilateral control in government.¹⁰⁷

Therefore, to understand the full process of trade policy decision making we must contend with at least three levels of prospective bargaining and strategic interaction:

¹⁰⁷ Charles E. Lindblom, "Bargaining the Hidden Hand," *Research Memorandum* (Santa Monica: Rand Corporation, 1955), 2.

between organized interests and the state, between government bureaucrats and decision makers from the politics stream, and with actors from the other state.¹⁰⁸ By neglecting the role of bargaining within the domestic realm, we are missing important possibilities of social and political coordination.¹⁰⁹ Conversely, by failing to understand bargaining between governments, we are overlooking important influences on domestic decisions.

Organization of this Analysis

This chapter has introduced the scope of the analysis for this thesis – the evolution of trade agreements from domestic agenda setting to bilateral bargaining. At this point, the research question has been broadly defined as how do we understand the evolution of a bilateral trade agreement from a domestic decision to a binding external commitment and, related to this, how does an initiative that seems to be an unlikely solution in the early stages of problem recognition gain acceptance to eventually become a central element of government policy? The search for answers to these questions, at least within the context of Canadian trade policy, will be carried out over the next seven chapters.

In Chapter 2, we will examine the specific decision making dynamics introduced in this chapter with a focus on multiple streams and bargaining frameworks. These frameworks will be synthesized in Chapter 3 and presented as an integrated multiple streams-synthetic utility analytical framework that forms around a set of three hypotheses/theoretical propositions. This analytical framework will then direct the inquiries of the case study analysis covered in subsequent chapters: Chapters 4 and 5 will

¹⁰⁸ These levels are based on those set out by Roger Fisher in, "Negotiating Inside Out: What are the Best Ways to Relate Internal Negotiations with External Ones?" *Negotiation Journal* 5:1 (1989), 34.

¹⁰⁹ Lindblom, 2-3.

consider the Auto Pact; Chapters 6 and 7 will consider the CUFTA and conclusions about the cases and the utility of the combined multiple streams-bargaining framework will be considered in Chapter 8.

Chapter 2

Fitting Decision Making Theories to Trade Policy Criteria

The first chapter of this thesis identified the need for a theory of trade policy decision making that:

1. Is applicable under conditions of ambiguity and uncertainty where decision makers operate with bounded rationality;
2. Is capable of capturing both the fluidity and structure of domestic policy formation;
3. Can be extended from the domestic to the international level without a significant loss of utility;
4. Is applicable to both parliamentary and presidential governance systems; and
5. Allows for the role for bargaining in policy development.

This chapter examines a number of different theories of decision making to determine which model or models best fit the above criteria.

Structure + Strategy

Earlier, this thesis highlighted the importance of including both structure and strategy considerations for understanding the formation of trade policy decisions. The earlier discussion of clocks and clouds in political theory reinforced the idea that actors exist within two sets of operating environments: external structure(s) that are related to institutional composition, status, hierarchies, etc. and an internal structure or “web of

rules” that governs actors’ behaviour.¹ Howlett and Ramesh describe actors and institutions as having a “mutually defining relationship.”² In other words, the structural components of an institution embody principles, rules and concerns that “shape actors’ behaviour by conditioning their perception of their interests and the probability of these interest being realized.”³

The attempt to integrate structure and strategy leads us consider two group of theory: broader structural theories that also accommodate individual action, and narrower theories of strategic decision making (applied to individuals and small groups) that may have limited explanatory capacity unless situated in a broader context. In the first group, of theories, this thesis examines rounds theory, garbage can theory, and multiple streams theory. In the second group are prospect theory, poliheuristic theory, and negotiation theory. Each theory will be evaluated based on its applicability to the criteria identified above. Implicit in this search is the requirement that a theory not only be capable of explaining a particular element of decision making but that it be suitable for integration with another theory so that one theory can pick up at the level where another leaves off, in order to explain a complementary range of dynamics and levels of analysis.

¹ Richard E. Walton and Robert B. McKersie, *A Behavioral Theory of Labor Negotiations* (Toronto: McGraw-Hill Book Company, 1965), 1-2.

² Michael Howlett and M. Ramesh. *Studying Public Policy: Policy Cycles and Policy Subsystems*, Second Edition. (Toronto: Oxford University Press, 2003), 53. This observation follows on their discussion of neo-institutionalism, both state and actor-based variants, which presents in more formal terms the simpler observations of the interlinkage of structure and strategy presented here.

³ Howlett and Ramesh, 53.

Rounds Theory

Rounds theory is useful for understanding the evolutionary nature of policy decision making and it allows for the role of individual persuasion and strategy. Geert Teisman, the theory's creator, presents the policy process as a series of interdependent decision rounds attended by various actors and the cumulative effect of these rounds is a policy end product.⁴ In this sense, it represents a comprehensive variant of the process tracing methodology described in Chapter 1.

The primary drivers of policy according to rounds theory are subjective perceptions of problem definition and the means and incentives employed by other actors to change these definitions. Decision making rounds are the fundamental mechanisms for transforming different and often conflicting perceptions into the intermediate-level decisions that culminate in a final policy decision.

The "rounds" operate something like a marketplace of ideas in which various actors try to "sell" each other their own conceptualizations of a problem and possible solutions. Teisman does not overlook the fact that problem definition and perception are closely tied to individual interests and ambitions. Rounds theory is particularly attentive to the way ideas are "sold" through social or strategic means.⁵

In order to apply rounds theory to empirical case studies, the researcher must review the chronology of policy development and identify each of the most important intermediate decisions leading to a final policy decision. The period immediately prior to

⁴ Geert R. Teisman, "Models for Research into Decisionmaking Processes: On Phases, Streams, and Decision-Making Rounds" *Public Administration* 78:4 (2000), 946-7.

⁵ See C.J.A.M. Termeer and J.F.M. Koppenjan, "Managing Perceptions in Networks," in *Managing Complex Networks: Strategies for the Public Sector*, W. Kickert, E.-H. Klijn, and J. Koopenjan, eds. (London: Sage Publications, 1997), 87; and E.-H. Klijn and Geert Teisman, "Strategies and Games in Networks," in *Managing Complex Networks: Strategies for the Public Sector*.

each intermediate decision is considered to be a round.⁶ A decisionmaking round “begins and ends with the adoption of a certain combination of a problem definition and a ... solution by one or more actors.”⁷ During each round, the interaction among actors results in one or more dominant definitions of problems and solutions.

Within the rounds methodology, participants score ‘points’ by proposing the problem-solution set that comes to eventually dominate all others under consideration.⁸ The actor with the most points is able to bring forward his/her preferred problem-solution set to the next round. At the same time “each new round can change the direction of the match, new players can appear, and in some cases the rules of the game can even be changed.”⁹

The importance of rounds theory comes from its acknowledgement of the interconnectedness of decisionmaking activities (what Teisman refers to as “chains of activities”) and the roles of various policy actors in building coalitions of support for ideas leading to outcomes. Where the theory is less useful, however, is at the level of individual behaviour. It tells us that actors employ various strategies to influence perceptions, such as framing the problem through language, or adding new players to the discussion, etc., but it does not tell us when or why such strategies would be employed, which actors would be able to exert more leverage, or why they would want to.

⁶ Teisman, 944.

⁷ Teisman, 947.

⁸ Teisman did not elaborate on the use of points or their quantification in the articles cited for this thesis. However, quantitative application may have been developed in applications of rounds theory that were published only in Dutch. See C. Termeer, *Dynamics and Inertia in Manure Policy* (The Hague: Vuga, 1993); and Geert Teisman, *Complex Decision-making: A Pluricentric View*, (The Hague: Vuga, 1992 – 1st edition, 1995 – 2nd edition, 1998 – 3rd edition.).

⁹ Teisman, 939.

Another limitation of rounds theory is that its case study applications to date involve small, relatively closed decision-making networks.¹⁰ In such cases, one does not need to give much consideration to factors external to domestic interest groups such as international influences, or multiple levels of government. Therefore, the applicability of rounds theory to the more complex decision making systems where trade policy resides is untested.¹¹ By contrast, the garbage can model, described in the following section, was specifically designed to deal with more complex decision-making environments.

Garbage Can Model

The garbage can model was developed by Cohen, March and Olsen in 1972 as a metaphor to describe choice under conditions of organized anarchy.¹² It emerged as a challenge to rational, phase-based models that presented decisionmaking as a sequence of alternative specification, evaluation of alternatives, and decision based on greatest utility. Because these models did not reflect what seemed to be taking place in real-world decision making, Cohen, March and Olsen presented an alternative depiction of choice opportunities as:

[A] garbage can into which various problems and solutions are dumped by participants. The mix of garbage in a single can depends partly on the labels attached to the alternative cans; but it also depends on what garbage

¹⁰ Termeer (1993) and Teisman (2000), for example, apply rounds theory to regional rail policy and manure policy in the Netherlands.

¹¹ The incorporation and/or future development of rounds theory into a multiple streams-synthetic utility research agenda is revisited in Chapter 8 of this thesis.

¹² Cohen, March, and Olsen, "A Garbage Can Model of Organizational Choice," cited in Chapter 1; see also James G. March, *A Primer on Decision Making: How Decisions Happen* (New York: Free Press, 1994).

is being produced at the moment, on the mix of cans available, and on the speed with which garbage is collected and removed from the scene.¹³

Decision making in the garbage can model is the product of the interaction of several organizational “streams” identified as problems, solutions, participants and choice opportunities. While these streams run relatively independently, a choice or decision is the product of some form of interaction among them. This interaction of streams (referred to later by Kingdon 1995 as coupling) is influenced by organizational structure affecting when and how decisionmakers attend to the streams.¹⁴ Additional influences on decision outcomes beyond organizational structure (i.e. the composition of streams) include such dynamic elements as decision style, degree of decisionmaker activity, number of problems and degree of decision difficulty.¹⁵

Cohen, March and Olsen’s analysis of decisionmaking processes under various conditions led them to conclude that some problems in organizations would be solved with new solutions, some with existing or off-the-shelf solutions, and some problems would just go away on their own.¹⁶ With respect to what decisionmakers intend to do versus actual policy results, the conclusions of the garbage can model are a bit more provocative:

[A]lthough the processes within the garbage can are understandable and in some ways predictable, events are not dominated by intention. The processes and the outcomes are likely to appear to have no close relation with the explicit intention of actors. In situations in which load is heavy

¹³ Cohen, March, and Olsen, “People, Problems, Solutions, and the Ambiguity of Relevance,” in *Ambiguity and Choice in Organizations*, James G. March and Johan P. Olsen, eds. (Oslo: Universitetsforlaget, 1976), 26.

¹⁴ Cohen, March, and Olsen (1976), 27.

¹⁵ Cohen, March, and Olsen (1976), 27.

¹⁶ Cohen, March, and Olsen (1976), 33.

and the structure is relatively unsegmented, intention is lost in a context-dependent flow of problems, solutions, people, and choice opportunities.¹⁷

Thus institutional influences and individual choice are depicted as interdependent and even though policy outcomes may not be intentional they can, according to Cohen, March, and Olsen, at least be understood.

The garbage can model is an indictment of rational choice, but it manages to avoid being completely cloud-like because it offers comprehensible explanations that accommodate complexity and randomness. This collusion of the determinate and indeterminate is evident in such garbage can dynamics as the identification of time as a casual variable for how decisions will be dealt with i.e. decision outcomes vary depending on how much time pressure the individual is under to make the decision or how many issues are competing for attention.¹⁸

The garbage can model has been criticized for methodological shortcomings and limited testability. Both sets of criticisms are linked to the theory's considerable scope and radical departure from the prevailing assumptions of rational choice. In an extensive 2001 critique, Bendor, Moe and Shotts identify various limitations of the garbage can model of decision making.¹⁹ Among them is the criticism that the notion of problems and solutions as independent streams is presented without adequate explanation of what the

¹⁷ Cohen, March, and Olsen (1976), 37.

¹⁸ Zaharaidis, 76. See also James G. March and Pierre J. Romelaer, "Position and Presence in the Drift of Decision," in *Ambiguity and Choice in Organizations*, James G. March and Johan P. Olsen, eds. (Oslo: Universitetsforlaget, 1976).

¹⁹ Jonathan Bendor, Terry M. Moe, and Kenneth W. Shotts, "Recycling the Garbage Can: An Assessment of the Research Program," *American Political Science Review* 95:1 (March 2001), 170. Johan Olsen responds to this critique in "Garbage Cans, New Institutionalism, and the Study of Politics," in the same issue.

coupling/decoupling process entails.²⁰ As well, the authors claim that explanations of why individuals make the choices they do are left outside the model.²¹

In a response to the critics,²² Olsen emphasized that the relatively modest ambition of garbage can theorizing – to provide a metaphor for the mixing of ideas and the variability of outputs based on what is being mixed, where, and when – has, over the past three decades, been broken down into smaller elements for further analysis. Among the most important contributions of garbage can theory is the concept of independent streams of problems and solutions and the dynamics of stream coupling. As described below, these have been advanced through the work of John Kingdon in his multiple streams analyses. Among other improvements, Kingdon addresses the criticisms by Bendor, Moe, and Shotts through enhanced explanations of coupling and individual choice.

Multiple Streams

Kingdon's multiple streams model retains the streams concept introduced in the garbage can model but simplifies the theory by narrowing the focus from organizational decision making in general, to how certain issues come to the attention of policy makers.²³ More precisely, Kingdon examines how some problems are extracted from a field of many

²⁰ Bendor, Moe, and Shotts, 172-3.

²¹ Bendor, Moe, and Shotts, 171.

²² See Johan Olsen, "Garbage Cans, New Institutionalism, and the Study of Politics," *American Political Science Review* 95:1 (March 2001); James G. March, *A Primer on Decision Making: How Decisions Happen* (New York: Free Press, 1994), 201.

²³ The first edition of Kingdon's *Agendas, Alternatives, and Public Policies* was published in 1984 (Boston: Little, Brown). References in this thesis are from the Second Edition (1995). A number of Kingdon's ideas about policy windows are derived from Jack L. Walker, "Setting the Agenda in the U.S. Senate: A Theory of Problem Selection," *British Journal of Political Science* 7 (1977).

others to become part of the government's decision agenda (the agenda setting process) and how all conceivable policy responses to the problem are narrowed down to just a few (the alternative specification and decision making process).²⁴

The garbage can's four-stream model of problems, solutions, participants and choice opportunities is pared down by Kingdon to three relatively independent process-based streams: problems, alternatives, and politics.²⁵ Choice opportunities are no longer presented as a stream on their own but as a window through which coupled streams (problems, alternatives, politics) may pass when conditions are right.

Problems

The problem stream²⁶ is the site of the infinite number of problems that the government could be paying attention to but only a few of which are within the government's interest and capacity to attempt to solve. The process of problem identification is by no means straightforward because, as Kingdon points out, a condition is not necessarily a problem. "Conditions become defined as problems when we come to believe that we should do something about them."²⁷ Problems are not just the objective events, therefore, they also include a "perceptive, interpretive element" that somehow contributes to their recognition as problems.²⁸

²⁴ Kingdon, 3-4.

²⁵ Discussion of Garbage Can Model and Multiple Streams revision occurs in Kingdon (1995) on pages 84-89.

²⁶ Kingdon, 90-113.

²⁷ Kingdon, 109.

²⁸ Kingdon, 110.

Because some actors will gain and some will lose from the way a problem is interpreted, there are great political stakes in problem definition.²⁹ Values, comparisons and category assignments are important elements in the transformation of conditions to problems. Values play a role because where one situates the ideal state determines how far away one estimates a condition to be from that ideal state. “A mismatch between the observed conditions and one’s conception of an ideal state becomes a problem.”³⁰ Comparisons are significant because estimates of relative position influence problem definition. Thus, “if one is not achieving what others are achieving, then the relative disadvantage may constitute a problem.”³¹

The importance of categories to problem definition is that people can assess a condition quite differently depending on what category they put it in. “Thus much of the struggle over problem definition centres on the categories that will be used and the ways they will be used.”³² The choice of category informs people’s perceptions about the seriousness of the problem and the options available to deal with it. For example, the framing of a matter of Canada –US economic relations as a foreign policy issue as opposed to a matter of domestic competitiveness would directly influence the government department assigned to deal with the issue, the range of policy instruments that would be brought to bear, and their likelihood of success. Categorization also has implications for actor interests. States Kingdon:

²⁹ Kingdon, 110.

³⁰ Kingdon, 110.

³¹ Kingdon, 111.

³² Kingdon, 111.

In the face of changed needs or new problems, government's first instinct is to preserve the old categories as long as possible. A change in categories represents a threat to somebody's interests and politicians like to put off the day of reckoning as long as they can.³³

Even when conditions are defined as problems, it is never certain that problems will be deemed worthy of government attention. The ability to capture attention, according to Kingdon, is a function of a combination of factors including significant changes in routine indicators, crises or focusing events, and policy feedback.

Indicators may be drawn from routine program monitoring or studies conducted inside or outside of government. Indicators "are not used primarily to determine whether or not a given problem exists; such determination is a matter of interpretation..."³⁴

Indicators are used to either "assess the magnitude of a problem" or "to become aware of changes in the problem."³⁵ Rather, indicators do not always contribute to straightforward recognition of a problem because they too are subject to various interpretations and become items for debate. "[D]ata do no speak for themselves. Interpretations of the data transform them from statements of conditions to statements of policy problems."³⁶

Feedback comes through various formal and informal channels including systematic monitoring, complaints, and bureaucratic experience.³⁷ Feedback may be interpreted as a problem if it reveals that an existing program is not meeting its original objectives, either because those objectives were not well interpreted in the framing of the

³³ Kingdon, 112.

³⁴ Kingdon, 91.

³⁵ Kingdon, 91.

³⁶ Kingdon, 94.

³⁷ Kingdon, 100-1.

previous program or legislation, because the program is not appropriate to meet the objectives, or because the cost of the program outweighs the benefits.³⁸

Focusing events are important mechanisms with which to motivate people in and around government when routine indicators are not enough to hold their attention to a problem. Kingdon describes a focusing event as something of such magnitude as to “bowl over everything else on the agenda standing in the way.”³⁹ Such events may take the form of a crisis or disaster that comes along to call attention to the problem or an event that resonates with the personal experience of a policy maker.⁴⁰

Symbolism is also important to crystallize or focus problem recognition. For example, the powerful images of September 11, 2001 that captured public attention through the media mark the terrorist attacks as catastrophic events demanding a US policy response. The use of symbolism is an important tool to persuade decision makers to see a problem one way and not another. Kingdon argues: “Once a particular problem comes to capture the attention of important people, some whole classes of approaches [alternatives] come into favour and others fall from grace.”⁴¹ This creates opportunities for advocates of particular alternatives to attach their proposals to newly-framed problems.

While not usually responsible for change on their own, the primary function of focusing events is to accelerate action, often reinforcing something already taking place and magnifying pre-existing perceptions or dispositions. They play an attention-getting

³⁸ Kingdon, 102-3.

³⁹ Kingdon, 96.

⁴⁰ Kingdon, 94-5.

⁴¹ Kingdon, 115.

function rather than being prime agenda movers themselves and can also serve as early warning of bigger problems to come.⁴²

Alternatives

Kingdon describes the alternative or policy stream as a “policy primeval soup”⁴³ in which alternatives and proposals generated by a policy community are winnowed down in a process comparable to Darwinian natural selection. The policy community is made up of specialists including government officials, academics, and interest group analysts. Ideas “float” in the “soup” waiting for the right combination of conditions necessary to bring them to life as serious proposals.⁴⁴ Usually the evolution of ideas is gradual, part of a process of “softening up” as proposals are subject to increasing levels of scrutiny and evaluation by community members. Ideas are spread among community members primarily through persuasion and diffusion as an “idea with something to recommend it”⁴⁵ becomes accepted and talked about by an increasing number of specialists and issue experts.

Some ideas survive and some do not. Those that do must meet the basic criteria of technical feasibility, value acceptability, tolerable costs, likely public acceptance, and

⁴² Kingdon, 97. The relationship between focusing events and problem attention is similar to the process of decision accretion described by Carol Weiss where policy outcomes are less the product of decisive action than of small, uncoordinated steps of problem interpretation and response which result in broader decision trends. See “Knowledge Creep and Decision Accretion,” *Knowledge: Creation, Diffusion, Utilization* 1:3 (March 1980).

⁴³ Kingdon, 116. Kingdon uses the terms policies and alternatives interchangeably in his multiple streams analysis but he refers to the stream in which they are contained as the policy stream. It will be called the alternative stream in this thesis to avoid confusion with the politics stream.

⁴⁴ Kingdon, 116-7.

⁴⁵ Kingdon, 141.

they must stand a reasonable chance of making it through the political process.⁴⁶ The final evaluations about public acceptance and political viability are made in the politics stream but any alternatives that will be obviously unacceptable on political grounds are culled early in the alternative stream.

Changes in the alternative stream are more likely to affect the content of policy alternatives or the short listing of ideas⁴⁷ than the priority the government attributes to them. However, that does not mean that politics and brokerage do not take place within the alternative stream. Here advocates of proposals work to educate specialists about their merits, package them in various attractive ways and blend them with other proposals until a winning combination can be achieved. Repackaging of alternatives is also a major preoccupation within the alternative stream and old policies are more likely to re-emerge as new proposals rather than ever disappear completely.⁴⁸

Politics

Kingdon identifies three key factors as responsible for change in the politics stream: events within the government itself such as turnover or jurisdictional influences, swings of national mood, and the balance of organized political forces including interest groups.⁴⁹

Changes in government represent an important source of new perspectives and new opportunities for matching solutions with problems. The changes of greatest concern

⁴⁶ Kingdon, 131.

⁴⁷ Kingdon, 139.

⁴⁸ Kingdon, 173.

⁴⁹ Kingdon 144-64.

to multiple streams are related both to turnover in key personnel and shifts at the operational level of government. Turnover in government administration can have a dramatic impact on what does (and does not) get on policy agendas.⁵⁰ As Kingdon observes, “At the time of a change of administration, people all over town hold their breath in anticipation, waiting to see what the new administration’s priorities will be [and] what its policy agendas will look like.”⁵¹ Multiple streams makes the important distinction that the driving force for change has less to do with the personal dispositions of new leaders coming into power and more to do with the structural aspects of turnover. A change of government at election time is a signal by voters that the time is ripe for change and such change is expected to be delivered by the incoming leadership. In Canada, the magnitude of change will be conditioned, to some extent, by whether the incoming government holds a majority of seats in Parliament.

Related to concerns about government turnover are events related to institutional jurisdiction, i.e. the departments, agencies, and committees that have a claim to jurisdiction or ‘turf’ within a regulatory area. The positions of individuals weighing in on an issue are affected by turf consciousness. Miles’ well-known law that argues: “where you sit is where you stand,”⁵² is an apt description of how one’s organizational affiliation affects one’s disposition on an issue. Thus an official from the Department of Agriculture is expected to represent views consistent with the interests of that department during inter-departmental discussions in spite of any differing views s/he might personally hold.

⁵⁰ Kingdon, 153.

⁵¹ Kingdon, 154.

⁵² Miles, Rufus E. Jr. “The Origin and Meaning of Miles’ Law,” *Public Administration Review* 28 (September-October 1978).

Turf also affects agendas. An issue's movement up the agenda may be slowed down or stopped entirely if it becomes too difficult to deal with multiple government departments on the same issue.⁵³ Sometimes issues may disappear entirely because they are defined out of existence by the demarcation of jurisdictional boundaries.⁵⁴

Paradoxically, jurisdictional competition may also accelerate the rise of an issue on the governmental agenda. Kingdon cites examples of committee chairs competing with each other to claim credit for an idea that they sense will be popular.⁵⁵ As a result of such competition, ideas become prominent more quickly than would be the case in the absence of such competition.

A second cause for change in the politics stream is a shift in national mood. National mood is related to the climate of public opinion and the broad social movements that exist beyond the confines of issue-specific policy communities. Kingdon describes national mood as the sense among decision makers that "a rather large number of people out in the country are thinking along common lines."⁵⁶ National mood is subject to periodic changes and these changes have important impacts on policy agendas and outcomes. Government perception of national mood tends to propel some initiatives up the policy agenda while sending others down. Whether or not the politician's perception of national mood is accurate is not as important as the politician's belief that s/he

⁵³ Kingdon, 156.

⁵⁴ Kingdon, 155.

⁵⁵ Kingdon, 157.

⁵⁶ Kingdon, 146.

understands what the public is thinking because it is perception that shapes policy action.⁵⁷

Related to national mood are the changes that sufficiently mobilized and vocal interest groups can bring to the politics stream. Political decision makers must be attuned to the directions in which these groups are heading in terms of issue interests and demands. If the majority of interest organizations are facing in the same direction, then the politician's job is easier because interest group consensus provides a strong impetus to government to move policy down the same path.⁵⁸ The job is more challenging if there is conflict among dominant interest groups because favouring the interests of one group will incur political costs with other groups. Furthermore, if no clear consensus emerges in terms of public interest, the default position for government is to take no action at all rather than risk political fallout on all sides from new initiatives.⁵⁹

Coupling and Policy Windows

The composition of the streams provides the organizational structure in which decision making takes place⁶⁰ and the decision itself is the result of the coupling or intersection of independently flowing streams of problems, alternatives, and politics at a particular moment in time. The basic dynamics of coupling are that a problem is recognized, a solution is generated within the policy community, the political context makes the time

⁵⁷ Kingdon, 147.

⁵⁸ Kingdon, 150.

⁵⁹ Kingdon, 150-1.

⁶⁰ Cohen, March, and Olsen (1976), 27.

right for policy change and the potential constraints to change are not prohibitive.⁶¹ None of the streams on their own is sufficient to place an item on the agenda. Similarly, the absence of a stream (i.e. no significant problem to be solved, no viable solution to offer, or no political market for proposals) means an issue's place on the agenda will not last long.⁶² Kingdon's central assertion is that no one stream dominates another; power comes from the joint effects of problems, alternatives, and politics.⁶³

At the definitional level, it is easy to confuse the concepts of stream coupling and policy windows. Although the two are related, stream 'coupling' refers to the ways that problems, alternatives, and political dispositions can be combined, while policy window 'opening' refers to the opportunity for particular couplings to be considered seriously by decisionmakers. Coupling helps a problem-solution set take shape while the policy window provides issue advocates with an opportunity to promote particular proposals or draw attention to their particular concerns on the cusp of a government decision.⁶⁴

Policy windows open not simply because there is a problem but also because there is a will to act on the part of the government. Thus the politics stream, not the problem stream is the central driver of window opening. Kingdon asserts that a window opens either because of a change in the politics stream (government turnover or shift in national mood or organized interests) or because a problem captures the attention of government officials and those close to them.⁶⁵ Therefore, it is important to note that it is

⁶¹ Kingdon, 165.

⁶² Kingdon, 178.

⁶³ Kingdon, 179.

⁶⁴ Kingdon, 165.

⁶⁵ Kingdon, 168.

stream change and consequent coupling, not stream change alone, that opens a window. Political change, for example, will bring certain problems centre stage and send others to the wings and contribute to certain configurations of politics-problem stream coupling. Similarly, problems are only recommended for attachment to policy solutions if there is sufficient governmental attention to them. Completing the picture is the addition of the alternative stream from which emerge solutions that attempt to fulfill the conditions of practical and political feasibility.

The response to an open window depends on what caused the window to open in the first place. Policy change is usually the result of changes in the problem or politics stream, not the alternative stream. A basic guideline, according to Kingdon, is that the priority a proposal receives on the governmental agenda is affected more by the problem and politics streams, but the content of those proposals is influenced more by events in the alternative stream.⁶⁶

A problem that captures the political imagination is more likely to be considered for a policy solution than one that does not. Also, when a problem is pressing, a window is likely to open wider – meaning that greater time and resources will be devoted to its resolution.⁶⁷ This relationship is also true in reverse, so that when a politically-motivated window opens that is not already linked to a specific problem (during a change of government, for example), then officials will scan for suitable problems upon which to attach their pet solutions.⁶⁸

⁶⁶ Kingdon, 168.

⁶⁷ Kingdon, 168 and 175.

⁶⁸ Kingdon, 175.

We cannot tell with any certainty when a policy window will open. Certain objective characteristics are likely to precipitate a policy window such as government turnover, budgetary cycles, or focusing events, but they can also open through chance or accident.⁶⁹ According to Kingdon, a combination of analysis and guesswork by the actors involved is required to determine if a window will open or even if it has opened at all. “[T]he window exists in the perceptions of the participants” and misperception is always a risk.⁷⁰ Policy entrepreneurs, those willing to make a personal and/or professional investment in the success of a proposal,⁷¹ could muster all of the resources at their disposal for issue promotion only to discover later that a policy window they expected was never really open.

Perception and timing are central to predictions about the opening of policy windows. They may open predictably or not⁷², and they are only open temporarily. As Kingdon observes, “An idea’s time comes, but it also passes.”⁷³ No irresistible momentum builds for a given initiative – for almost any policy problem we can name, there is more than one possible way to deal with it. Therefore, if policy entrepreneurs do not take advantage of windows when they open, they must wait until another window opens at a later date.

⁶⁹ For a discussion of types and predictability of policy windows, see Howlett (1998), cited in Chapter 1.

⁷⁰ Kingdon, 171.

⁷¹ Kingdon, 122.

⁷² Kingdon, 165.

⁷³ Kingdon, 169.

Different Kinds of Agendas

Although streams processes may help a problem to reach the governmental agenda, Kingdon notes that not all items on the governmental agenda will warrant a position on the decision agenda. The governmental agenda is defined as the list of subjects to which government officials are paying serious attention. It “can be set solely in either problems or political streams, and solely by visible actors.”⁷⁴ Problems can find a place on the governmental agenda without stream coupling having taken place. Says Kingdon, “Officials can pay attention to an important problem, for instance, without having a solution to it. Or politics may highlight a subject, even in the absence of either problem or solution.”⁷⁵

In contrast to the governmental agenda, the decision agenda represents the “list of subjects that is moving into position for an authoritative decision.”⁷⁶ This agenda operates differently from the other. Items are not likely to rise on the decision agenda unless the three elements of problem, alternative and political receptivity are “linked in a single package” through stream coupling.⁷⁷ Partial couplings are less likely to make much headway on decision agendas. Kingdon explains:

Problems that come to decision makers without solutions attached, for instance, are not as likely to move into position for authoritative choice as if they did have solutions attached. And proposals that lack political backing are less likely to move into position for a decision than ones that do have that backing.⁷⁸

⁷⁴ Kingdon, 203.

⁷⁵ Kingdon, 203.

⁷⁶ Kingdon, 203.

⁷⁷ Kingdon, 203.

⁷⁸ Kingdon, 203.

Problems that make it on to the governmental agenda but *not* the decision agenda may be the result of partial problem-politics stream coupling or the lack of an alternative that has been adequately “softened up” and worked out for technical feasibility in the alternative stream.⁷⁹ If the problem is matched with a solution at all, it is likely to be a safe, off the shelf alternative.⁸⁰

Bargaining in Consensus and Coalition Building

Multiple streams highlights the importance of bargaining through consensus and coalition building both in the alternative and politics stream. In the alternative stream, interested actors attempt to promote favoured proposals to members of the policy community through persuasion based on an idea’s intrinsic merit.

Once a proposal has taken shape in the alternative stream, its long-term viability is determined in the politics stream where it gains acceptance through a process of coalition-building: “Bargains are struck [and] concessions are given in return for participation in a coalition.”⁸¹ The technical feasibility and value coherence of an idea are important to its movement through the alternative stream, but other factors are taken into account when a proposal is being considered in the politics stream and acceptance here is more the product of explicit *quid pro quo* bargaining. Says Kingdon, one joins a coalition in support of an idea “not because one has simply been persuaded of the virtue of that course of action but because one fears that failure to join would result in exclusion from

⁷⁹ Kingdon, 142.

⁸⁰ Kingdon, 202.

⁸¹ Kingdon, 159-60.

the benefits of participation.”⁸² In the politics stream, decision makers strive to reach a winning coalition. “Thus the discussion is more likely to be ‘You give me my provision, and I’ll give you yours’, rather than ‘Let me convince you of the virtue of my provision’”⁸³ – as would be the case in the alternative stream.

Within the politics stream, the initial positions of actors are staked out rigidly. Political actors are not willing to make early concessions until they see what is available and where the tide of opinion is turning on an issue.⁸⁴ When a policy window begins to open, the opportunity for compromise ripens as “participants conclude that the bandwagon is rolling, and that they should be active in shaping the outcome.”⁸⁵ Consensus building at this point can take place very rapidly, encompassing multiple actors and bargains. Because these bargains may have to accommodate a wide range of interests from coalition members, the shape of the final proposal could be much different from its origins.⁸⁶ Timing is an essential element of bargaining success. With the prospect of an open window, participants are motivated to work harder to generate new solutions or refine old ones. From a bargaining perspective, participants are also more willing to compromise on established positions with an open window in sight because at that point the possibility of a deal becomes more likely. To compromise before a window opens would be to give away bargaining leverage prematurely.⁸⁷

⁸² Kingdon, 160.

⁸³ Kingdon, 160.

⁸⁴ Kingdon, 161.

⁸⁵ Kingdon, 161.

⁸⁶ Kingdon, 161.

⁸⁷ Kingdon, 166-7.

Policy Entrepreneurs

Policy entrepreneurs are catalysts for multiple streams decision making. They can come from inside or outside of government. Within government, they may be politicians or bureaucrats. The uniting factor, according to Kingdon, is a willingness to invest time, energy, reputation, and even money in the success of a policy.⁸⁸ The reason for their investment can be commitment to the merits of the proposal, satisfaction from participating in the process, or personal gain in the form of job security or career promotion.

Unlike their political masters, Canadian bureaucrats are shielded from the necessity to campaign for their jobs every few years. Hence, their motivations as policy entrepreneurs do not tend to be overtly political but bureaucrats do engage in strategic lobbying on behalf of certain issues when the time is ripe to do so, such as when there are clear benefits for their careers, their departments, their ministers, or the public good as they see it.⁸⁹ Bureaucrats will attempt to build a coalition to generate support when faced with other governmental officials or interest groups who are blocked by the development of a favoured initiative.⁹⁰

The important characteristics of the policy entrepreneur may be summarized as follows:

⁸⁸ Kingdon, 122.

⁸⁹ By necessity, this analysis simplifies the rationale for when officials become involved in political advocacy of an issue. Savoie, 350-362, provides a detailed discussion of bureaucratic policy influence, especially as it is influenced by the various eras of governmental decision making in Canadian politics and the individual leadership styles of Canadian prime ministers.

⁹⁰ H. Richard Friman, "Side-payments versus security cards: Domestic bargaining tactics in international economic negotiations," *International Organization* 47 (Summer 1993), 388.

- Some legitimate claim to participate in the process by virtue of expertise, an ability to speak for others, or an authoritative decision-making position;⁹¹
- A reputation for influence based on political connections or negotiating skill;⁹²
- Persistence, especially in combination with other characteristics;⁹³
- Patience and preparation so that entrepreneurs are set to act as soon as a window of opportunity appears;⁹⁴ and
- Creativity, in order to find and exploit opportunities in complex, uncertain, and ambiguous decision making environments.⁹⁵

Few policy entrepreneurs could claim all of these traits, but Kingdon argues that any two of these characteristics taken together creates powerful synergies that are greater in combination than the sum of their individual effects taken.⁹⁶

Policy entrepreneurs are seldom solely responsible for an initiative's success but, as issue advocates, they can be critical to the softening-up process in the alternative stream when new ideas are being considered as potential policy options.⁹⁷ As brokers in the politics stream, entrepreneurs are also efficient at matching problem-solution combinations to the prevailing political mood or creating political momentum for pet initiatives.⁹⁸ In addition, policy entrepreneurs are skilled at predicting where the problem,

⁹¹ Kingdon, 180.

⁹² Kingdon, 181.

⁹³ Kingdon, 181.

⁹⁴ Kingdon, 183.

⁹⁵ Kingdon, 183.

⁹⁶ Kingdon, 181.

⁹⁷ Kingdon, 180.

⁹⁸ Kingdon, 182.

alternative and politics streams are heading. This helps them to fulfil their main objectives of facilitating stream couplings or pushing proposals through available policy windows.⁹⁹

Bandwagons, Tipping Points and Spillover

Other related mechanisms that affect an idea's viability as a policy option are bandwagons, tipping points and spillover. Bandwagons refer to the accelerated diffusion of a particular solution to become the idea everyone seems to be talking about. The bandwagon is set in motion at the point when an idea's popularity seems to take hold and it rises from the undifferentiated "soup" of solutions to capture the imagination of decision makers.¹⁰⁰ How do we recognize a bandwagon? The usual process of consensus building takes place along two tracks – awareness of problems and agreement on solutions. For most ideas this process is prolonged and incremental but some ideas seem to take off after a certain amount of diffusion and stand out above the others. Ideas that previously were not in play suddenly become accepted as "orthodox thinking."¹⁰¹

Kingdon compares this take-off phenomenon to Thomas Schelling's "tipping model" where an idea takes hold among a few people and then spreads rapidly until it becomes commonplace. "The more a proposal is discussed, the more seriously it is taken."¹⁰² Ideas, good and bad, catch on, snowballing as they pick up adherents.¹⁰³ The

⁹⁹ Kingdon, 181.

¹⁰⁰ Kingdon, 139-40.

¹⁰¹ Kingdon, 140.

¹⁰² See Thomas Schelling, *Micromotives and Macrobehavior* (New York: W.W. Norton, 1978). For more recent work on causation and the contagion effect in societies, see also Malcolm Gladwell, *The Tipping Point: How Little Things Can Make a Big Difference* (Boston: Little Brown 2000).

simple explanation for why a tipping point occurs (and starts a bandwagon rolling) is either that the idea is inherently a good one, or that the idea is a good one to be associated with. The first explanation refers to perceptions of an idea's merits, the second to perceptions of how a successful idea might benefit those actors associated with it. This is explained in more detail below.

Tipping occurs in both the political and solution streams but the process of diffusion that precipitates tipping occurs in different ways. Alternative stream tipping takes place within the policy community. The primary dynamics are persuasion and analysis. Here specialists review an idea for congruence with the criteria for survival defined earlier.¹⁰⁴ Interviews conducted for this thesis reinforce Kingdon's observation that, from the perspective of a policy bureaucrat, there is no such thing as a new idea.¹⁰⁵ Therefore for an idea to gain momentum in the alternative stream, it must have been transformed or recombined with other ideas in a way that infuses it with new merits.¹⁰⁶

Politics stream tipping is driven by calculations of interest by people considering associating themselves with a new idea. It encompasses a process of coalition building, and an exchange of concessions within and across issue areas.¹⁰⁷ Explosive growth in coalitions – the bandwagon effect - is observable in the politics stream but it is driven by

¹⁰³ Kingdon, 161.

¹⁰⁴ Technical feasibility, value consistency, affordability, and basic indications of political and public acceptability.

¹⁰⁵ Statements to this effect were made during interviews with Simon Reisman, Jake Warren, and Doug Arthur. They are all retired public officials with careers spanning four decades.

¹⁰⁶ Kingdon, 141; see the discussion on transformation ("mutation") and recombination of ideas on page 124.

¹⁰⁷ Kingdon, 141.

different dynamics than the “idea that catches on” in the alternative stream.¹⁰⁸ In the politics stream a bargaining process is at work: “potential coalition supporters are enticed into support by promises of some benefit, and others climb aboard the bandwagon out of fear that they will be left without their share of the benefits in the event that something should pass.”¹⁰⁹

Once a process is set in motion, the policy entrepreneur might have little control over subsequent situations or events that the proposal might encounter.¹¹⁰ “Since the outcome depends on the mix of problems and proposals under consideration, there is bound to be some happenstance, depending on which participants are present, which alternatives are available and what catches people’s eyes.”¹¹¹ Therefore, policy entrepreneurs must question whether their actions will be worth the risk of opening Pandora’s box. “Sometimes participants choose not to open a window at all rather than risk an outcome that would be worse than the *status quo*.”¹¹²

Although not as immediate as the bandwagon effect, the phenomenon of spillover can also galvanize significant policy change. Spillover refers to the fact that the opening of a window for one subject increases the chances of a window opening for a similar subject and subsequently disrupts the pace of incremental policy change.¹¹³ A radical or precedent- setting decision can establish a new principle or catapult the pace of change

¹⁰⁸ Kingdon, 161.

¹⁰⁹ Kingdon, 161.

¹¹⁰ Kingdon, 177.

¹¹¹ Kingdon, 177.

¹¹² Kingdon, 178.

¹¹³ Kingdon, 190. This definition is linked to Ernst B. Haas, *The Uniting of Europe* (Stanford: Stanford University Press, 1968), 291-9.

far ahead of its usual incremental trajectory. This phenomenon is similar to Baumgartner and Jones' punctuated equilibrium explanation for the episodes of radical policy change that sometimes disrupt normally incremental policy development.¹¹⁴ Focusing events can also be the cause of atypical policy change apart from, or in combination with, spillover from other issues or decision frameworks.¹¹⁵

The establishment of a new principle or way of doing things through spillover is important because governments are notorious for their reliance on entrenched operating procedures.¹¹⁶ Rigid institutionalization of practices limits what ideas are considered practical and the range of feasible methods for their realization. Spillover into other areas is made possible because the coalition defending the old ways is defeated or because the new policy has been effective or popular and politicians are anxious to capitalize on this success in other areas.¹¹⁷ As Kingdon argues:

Events spill over into adjacent areas because politicians find there is a reward for riding the same horse that brought benefit before, because the winning coalition can be transferred to new issues, and because one can argue from precedent.¹¹⁸

Spillover increases the likelihood of change but does not guarantee it. Change is never easy or painless, especially when it involves disrupting established practices or interests. New policy windows may be opened as a result of innovations in other areas

¹¹⁴ Frank R. Baumgartner and Bryan D. Jones, *Agendas and Institutions in American Politics* (Chicago, University of Chicago Press, 1983), 251.

¹¹⁵ See James L. True, "The Changing Focus of National Security Policy," in *Policy Dynamics*, Frank R. Baumgartner and Bryan D. Jones, eds. (Chicago: University of Chicago Press, 2002).

¹¹⁶ Kingdon, 191.

¹¹⁷ Kingdon, 192.

¹¹⁸ Kingdon, 195.

but they may be temporary, closing when new concerns come to the fore or if the precipitating policy begins to show latent weaknesses.¹¹⁹

Assessment of Multiple Streams

According to the criteria set out at the beginning of this chapter, multiple streams shows itself to be applicable under conditions of ambiguity and uncertainty and able to capture both the fluidity and structure of domestic policy formation. Aberbach and Christensen describe multiple streams as policy decision making in a “neater garbage can.”¹²⁰ In other theories of organized anarchies “participants, problems and solutions are selected and coupled in unpredictable ways and are thus difficult to understand and explain.”¹²¹

Kingdon, however, focuses on the organized part of the process. Although solutions look for problems and problems look for solutions, an understanding of the influence of politics and political opportunities makes the process more transparent and predictable.

Multiple streams presents a compelling alternative to rational models where decision making processes are characterized by control and calculation. For Kingdon, structures exist, but they emerge from local rules.¹²² As well, they are historically contingent so “[w]hat happens at one time depends on what happened previously.”¹²³

¹¹⁹ Kingdon, 192-3.

¹²⁰ Joel D. Aberbach and Tom Christensen, “Radical Reform in New Zealand: Crisis, Windows of Opportunity, and Rational Actors,” *Public Administration* 79:2 (2001), 413.

¹²¹ Aberbach and Christensen, 410.

¹²² Kingdon, 224.

¹²³ Kingdon, 224.

Kingdon claims that even after one identifies as much structure as possible, “residual randomness” remains, allowing for “surprise and unpredictability” in decision making.¹²⁴

Mucciaroni’s well-known critique of Kingdon’s work acknowledges its importance as an alternative to the clock-like determinism of rational models,¹²⁵ but he also finds multiple streams to be overly indeterminate or cloud-like in some areas. He recommends that the model be used as a general framework from which to create “more middle-level propositions that allow us to predict the kinds of political and institutional conditions that need to exist or emerge for getting particular kinds of problems and solutions on the agenda.”¹²⁶ To this end, Mucciaroni calls for the exploration of how historical antecedents, organizational structure and decision-making processes shape and facilitate the coupling process.

These are important observations but Mucciaroni does not offer any suggestions as to how such middle-level propositions might be developed. Recent work by other analysts, however, has provided both extensions and refinements to the model. For example, in applications of multiple streams to US foreign policy (Durant and Diehl 1989) and state growth management (Durant, Thomas and Haynes, 1993), further propositions have been generated about the predictability of radical departures from incremental policy change.¹²⁷ Similarly, in applications of multiple streams to

¹²⁴ Kingdon, 224.

¹²⁵ Mucciaroni, 459. Note, Mucciaroni purports to deal with the Garbage Can model but focuses primarily on Kingdon’s *Agendas, Alternatives and Public Policy*, rather than Cohen, March and Olsen’s original conceptualization.

¹²⁶ Mucciaroni, 482.

¹²⁷ The mode of policy change and tempo of decisionmaking are developed in Robert F. Durant, Larry W. Thomas, and Don Haynes, “The Politics of Growth Management Reform in the States: A Comparative Analysis,” *Policy Studies Review* 12:3/4 (Autumn/Winter 1993).

privatization schemes in Britain and Germany (Zahariadis and Allen 1995) more detailed hypotheses have emerged regarding the relationship between the structure of policy networks and the rate of idea acceptances in the policy stream.¹²⁸

With respect to the current application to Canadian bilateral trade policy, what are the middle-level propositions that are necessary? Because multiple streams was developed specifically to explain policy making under conditions of ambiguity and uncertainty, the theory easily meets this first criterion set out for trade policy analysis. Beyond applicability under conditions of ambiguity and uncertainty, the remaining criteria are whether multiple streams can be extended from the domestic to the international level without loss of utility, whether it can be applied to different governance systems, and whether the theory allows for the role for bargaining in policy development. These questions are addressed in the following section.

Domestic and International Applicability

One way to deal with the domestic/international overlap in trade policy development is to frame the problem within the domestic context only. This was the approach taken by Tomlin (2001) in his multiple streams analysis of the Canadian decision to negotiate the free trade agreement with the United States. Even though many of the influences on Canadian actions originated in the United States, Tomlin's analysis filtered these variables through the Canadian lens to understand their effects on the problem,

¹²⁸ Nikolaos Zaharaidis and Christopher S. Allen, "Ideas, Networks, and Policy Streams: Privatization in Britain and Germany," *Policy Studies Review* 14:1/2 (Spring/Summer 1995).

alternative, and, politics streams.¹²⁹ This domestic filter of international influences is similarly applied in Tomlin's earlier multiple streams examination of why a Canadian-led initiative for a global ban on anti-personnel mines became the preferred policy alternative for the government of Canada.¹³⁰

Another multiple streams approach to cases with domestic and international elements has been to avoid generalized propositions and treat external and domestic variables on a case-by-case basis. In their study of US foreign aid policy, Travis and Zaharaidis hypothesize that, in general, multiple streams provides a good way to organize diverse types of information, explore the interactive effects of domestic and external variables, and explain phenomena in domestic and foreign policies."¹³¹ However, because foreign aid policy is different from other policy areas due to the high degree of foreign influence, relatively few participants, and a small domestic constituency outside of government,¹³² Travis and Zaharaidis recommend that, for that policy sector, greater attention should be paid to the unique structure and function of the foreign aid policy network.

What about those cases involving international negotiations where large portions of policy content are developed externally and only returned to the domestic framework for acceptance, rejection or modification? While few multiple streams case applications

¹²⁹ Brian W. Tomlin, "Leaving the Past Behind: The Free Trade Initiative Assessed," (2001) cited in Chapter 1.

¹³⁰ Brian W. Tomlin, "On a Fast-Track to a Ban: The Canadian Policy Process," *Canadian Foreign Policy* 5:3 (Spring 1998).

¹³¹ Rick Travis and Nikolaos Zaharaidis, "A Multiple Streams Model of U.S. Foreign Aid Policy," *Policy Studies Journal* 30:4 (2002), 495-6.

¹³² Travis and Zaharaidis, 498.

could be found in this area, it appears that multiple streams is useful but not sufficient for understanding domestic policies with significant international negotiation components.

In one such analysis, Simon and Alm (1995) studied the passage of the 1990 US Clean Air legislation, which was one of the policy results of Canada-US negotiations over acid rain. As a transboundary issue, this case is particularly relevant to the study of bilateral free trade because policy development similarly took place at the intersection of the domestic and international spheres. Methodologically, Simon and Alm were faced with a choice between domestic process models “which emphasize the variety of actors involved in the complex, bureaucratic affair of lawmaking” and international “rational actor models which explain the strategies of ‘unified’ states pursuing their national interests in an anarchic but interdependent world.”¹³³ Instead, Simon and Alm sought to combine the insights of both types of models into an integrated analysis.

They observed that multiple streams provides a strong foundation upon which to work but is silent in a number of critical areas. Among them:

- Multiple streams works with domestic policy processes, but it cannot explicitly deal with international factors;
- Multiple streams is concerned with the policy process as a whole, hence it does not consider the “motives or strategies of individuals or decision units involved in policymaking,”¹³⁴ and

¹³³ M.V. Simon and L.R. Alm, “Policy Windows and Two-Level Games: Explaining the Passage of Acid-Rain Legislation in the Clean Air Act of 1990,” *Government and Planning* 13 (1995), 495.

¹³⁴ Simon and Alm, 460.

- Multiple streams explains why a policy rises or falls on the agenda but cannot tell us why individuals or groups “pursue particular strategies that lead to the success or failure of a policy proposal.”¹³⁵

In order to deal with relevant factors external to domestic processes as well as with individual motivations and strategies, Simon and Alm propose docking a second, compatible theory of strategic interaction onto multiple streams. The logic of combining two theories is that it allows us to follow the trajectory of a process from its domestic foundations to a resolution shaped by both internal and external dynamics. Consistent with the process tracing method described in Chapter 1, such an approach allows us to follow a policy process from its beginning to a logical conclusion to understand the bases of particular outcomes.

Combining multiple streams theory with theories of individual action is becoming more popular. Peter (2003) suggests framing multiple streams within evolutionary models of adaptation borrowed from the natural sciences.¹³⁶ For Simon and Alm, another alternative is to amalgamate multiple streams with game theory in order to move into the area of strategic interaction and to understand the role that individual strategies, incentives and motivations play in policy development. Game theory is a strong option as a secondary theory because it provides a useful tool for analysing the outcome of independent decisions. It can also capture the two-level game phenomenon where “actors

¹³⁵ Simon and Alm, 460.

¹³⁶ See John Peter, “Is There Life After Policy Streams, Advocacy Coalitions, and Punctuations? Using Evolutionary Theory to Explain Policy Change,” *Policy Studies Journal* 31:4 (2003).

may choose what seem to be suboptimal policies in one game, but which may indeed be optimal policies when one considers their effects in a second game.”¹³⁷

The game theory used by Simon and Alm to analyze the outcome of interdependent decisions is based on Brams’ theory of moves.¹³⁸ Players in Brams’ game act rationally in that they choose the option that is likely to yield the maximum payoff within the constraints of interdependent decisionmaking.¹³⁹ Through repeated games and refinements such as differentiating between the effects of simultaneous versus sequential choices, game theory is able to deal with increasing levels of dynamism and provide insight into the players’ propensity toward cooperation or competition.

Brams provides a greater level of flexibility than other game theorists because he provides players with the opportunity to switch strategies during play. Nevertheless, game theory as a whole is limited in its ability to deal with the bounded rationality of negotiators who are operating in a multi-issue environment they might themselves not fully understand. More effective would be a bargaining theory based on situational rationality, which can easily be derived through multiple streams analysis.¹⁴⁰

Applicability Under Different Governance Systems

Kingdon’s multiple streams model was developed to assist in the understanding of agenda formation and alternative specification in the US federal system. As we have

¹³⁷ Simon and Alm, 467.

¹³⁸ S. Brams, *Theory of Moves* (Cambridge: Cambridge University Press, 1994).

¹³⁹ Simon and Alm, 467.

¹⁴⁰ Although game theory is being set aside at this point in the theoretical review, it does not disappear entirely from this analysis because, as we shall see later, it forms the basis for some calculations of position, risk and return in the synthetic utility bargaining model.

already discussed, multiple streams has also been applied in non-US and transboundary case studies (Tomlin 2001; Simon and Alm 1995; Zaharaidis 1995; Zaharaidis and Allen 1995; also Kendall 2000; and Compston and Madsen 2001). This section examines in more detail, however, whether the assumptions of multiple streams are readily applicable to different national decision making systems. Aberbach and Christensen (2001), for example, apply the model without modification to their analysis of economic reform in New Zealand, in order to investigate the effect that policy entrepreneurs and packages of “ready-made solutions” can have on policy change.

One way to test cross national applicability is through case study application.¹⁴¹ A test of multiple streams’ cross-national applicability was conducted by Howlett in 1998 through specific trials of three types of cases in six Canadian issue areas. He was able to verify that the types of policy windows identified by Kingdon are also recognizable in Canadian policy formation. Howlett concludes that multiple streams’ assertions about the frequency of the various types of policy windows (routine, spillover, discretionary, and random) also stand up to empirical testing in non-US policy contexts.¹⁴²

Because of the high number of similarities between the United States and Canada policy contexts, differences in outcomes can “potentially be explained in terms of those few dimensions on which initial conditions are not identical”¹⁴³ such as parliamentary versus presidential decisionmaking systems. Case studies by Zaharaidis and Allen (1995)

¹⁴¹ George and McKeown, 25. See also A. Lijphart, “Comparative Politics and the Comparative Method,” *American Political Science Review* 65 (1971); and Stephen Van Evera, *Guide to Methods for Students of Political Science*, (Ithaca: Cornell University Press, 1997).

¹⁴² Howlett, 414-5.

¹⁴³ George and McKeown, 25.

and Blankenau (2001) have provided positive evidence that the multiple streams model is applicable, with some modifications, to parliamentary governments.

For Zaharaidis, the challenge with parliamentary application is with the politics stream. Like the presidential system, the parliamentary environment is complex and decision makers operate under bounded rationality. However, as we reviewed in Chapter 1, the parliamentary systems of Britain and Canada are less anarchic and more centralized than is the case in the United States because of the fusion of the legislative and executive branches of government, together with strong party discipline to minimize intragovernmental conflict.

Challenging Kingdon's claim that the politics stream is primarily affected by national mood, interest groups and turnover of decisionmakers, Zaharaidis proposes that in centralized parliamentary governments, these three factors should be replaced with a single political variable, that of the ideology of the governing parties. His rationale is that ideology is much more important in centralized systems than national mood which is, in any case, difficult to measure and to distinguish as a cause of, or a response to, policy formation. As well, Zaharaidis argues that in parliamentary governments, interest groups and political turnover are subordinate to political ideology in terms of their impact on decisions.¹⁴⁴

While Zaharaidis' modification is probably a good one for broad brush accounts of agenda-setting in parliamentary governments, it pushes aside important determinants of the middle-level propositions advocated by Mucciaroni such as structure of policy network, the nature of decisionmaking authority, and participants in the policy process,

¹⁴⁴ Zaharaidis, 79-80.

that were earlier counted as significant. The party ideology simplification also removes much of the detail required for understanding strategic interaction among individuals. For example, high turnover of political decisionmakers may place more instrumental authority in the hands of bureaucrats and may also influence the extent to which the Prime Minister is involved in hands-on policy decisions but this institutional element would be missed when political variables are collapsed into ideology alone.

A less radical modification to accommodate parliamentary decisionmaking in Canada is suggested by Blankenau who uses as his point of departure the criticism that multiple streams fails to pay sufficient attention to institutions.¹⁴⁵ Like Zaharaidis, he notes that the primary institutional difference between Canada and the United States is the fusion versus division of executive-legislative powers. The fusion produces more efficient, centralized decisionmaking in Canada than in the United States where the separation of powers creates potential veto points that must be overcome by mobilization of interested actors.¹⁴⁶ However, centralization is not synonymous with autocratic decisionmaking. The concentration of power in the Canadian executive branch means that the various power centres in Ottawa (line departments, Privy Council Office, etc.) are capable of producing a high level of intragovernmental conflict just as in the United States but without the Congressional dimension. Furthermore, a great deal more

¹⁴⁵ Joe Blankenau, "The Fate of National Health Insurance in Canada and the United States: A Multiple Streams Perspective," *Policy Studies Journal* 29:1 (2001), 2. See Paul A. Sabatier, "The Suitability of Several Models for Comparative Analysis of the Policy Process" in *Comparing Government Activity*, L.M. Imbeau and R.D. MicKinlay, eds. (New York: St. Martin's Press, 1996) and E. Schlager, "A Comparison of Frameworks, Theories, and Models of the Policy Process," in *Theories of the Policy Process*, cited above.

¹⁴⁶ This condition is one of the primary drivers of punctuated equilibrium theory. See J.L. True, B.D. Jones and F.R. Baumgartner, "Punctuated Equilibrium Theory: Explaining Stability and Change in American Policymaking," in *Theories of the Policy Process*, cited above.

brokerage and accommodation of organized interests inside and outside of government is required by a minority government.

Blankenau identifies Canada's decentralized federal structure as the counterpoint to centralized, parliamentary decision making. Federal decentralization provides provincial interests with more policy weight than their US counterparts, especially in areas falling under provincial constitutional authority. In response to these differences, Blankenau makes the theoretical claim that political structure affects how long a policy window needs to stay open for change to take effect.¹⁴⁷ Therefore in case study applications, the role of intra-governmental and sub-federal coalition building must be considered. This can easily be accommodated in the existing multiple streams treatment of the influence of organized interest groups. Through this extra level of sensitization to coalition building in the politics stream, we can apply multiple streams to either parliamentary or presidential decision-making structures without significantly altering the structure or explanatory capacity of the model.

Summary

The use of multiple streams as a model of trade policy formation in Canada has several advantages over rational policy models. It accommodates complexity, uncertainty, ambiguity and bounded rationality. It emphasizes the importance of structure as well as individual influence on the process; it allows for creativity and chance; and it

¹⁴⁷ Blankenau, 3. Although an interesting area of inquiry issue of window duration is not subject to any further consideration by Blankenau. More empirically grounded research is found in the examination of frequency and type of policy window in Howlett, cited earlier in this chapter.

accommodates both incremental and non-incremental policymaking.¹⁴⁸ Since its first appearance, the applicability of multiple streams has been expanded and refined through case study applications to various policy areas and political systems. As a result, it has been shown to accommodate domestic and external processes and has been used by analysts on cases in non-US jurisdictions including successful Canadian applications and cases with a significant external negotiating component.

Equally important is that multiple streams is attuned to process. As Sabatier notes, multiple streams avoids being ahistorical by incorporating a prominent role for who and what has come before and sets this into a trajectory for present and future policy outcomes. This is realized through a strong role for policy communities and an emphasis on “substantive policy information about real world problems and the impacts of previous governmental interventions.”¹⁴⁹

However, to complete our understanding of the process, it is necessary to delve more deeply into the strategic interaction component of decision making and incorporate a theory that explains these dynamics in a manner consistent with the assumptions of multiple streams. While multiple streams allows for such strategic interaction through bargaining and coalition building it does not provide the tools to explain strategic choices or outcomes. In the next section we examine various theories that focus on strategies and outcomes based on actors’ subjective perceptions and mutual responses. The theories presented are prospect theory, poliheuristic theory and negotiation theory.

¹⁴⁸ Michelle Saint-Germain and Robert A. Calamia, “Three Strikes and You’re Out: A Streams and Windows Model of Incremental Policy Change,” *Journal of Criminal Justice* 24:1 (1996), 59.

¹⁴⁹ Paul A. Sabatier, “Toward Better Theories of the Policy Process,” *American Political Science and Politics* 24:2 (1991), 151.

Theories of Decision Making

Prospect Theory

Prospect theory was developed by cognitive psychologists Kahneman and Tversky in the late 1970s as an alternative to rational choice in order to analyze decision making under risk. Its claims are the result of extensive empirical testing in laboratory environments.¹⁵⁰

The fundamental premise of prospect theory is that a problem can be viewed in numerous ways and that the way an issue is framed affects the choices that are made to respond to it. According to Kahneman and Tversky, people tend to engage in a “process of mental accounting” that is related to perceptions of risk, costs and benefits.¹⁵¹

In particular, prospect theory is interested in the conditions under which actors are likely to be risk averse or risk prone. In this regard, it claims that people tend to overvalue losses relative to comparable gains. For example, when losses are likely, a choice to retain the *status quo* is more attractive; when gains are likely, the *status quo* is a less attractive alternative.¹⁵² In the context of trade negotiations, this means that both sides are prone to treat their own concessions as losses and those of the other side as

¹⁵⁰ Daniel Kahneman and Amos Tversky, “Choices, Values, and Frames,” *Choices, Values, Values, and Frames*, Daniel Kahneman and Amos Tversky, eds. (Cambridge: Cambridge University Press, 2000). The introduction of the model, “Prospect Theory: An Analysis of Decision Under Risk,” appeared in *Econometrica* 47 (1979).

¹⁵¹ Kahneman and Tversky, 1.

¹⁵² Kahneman and Tversky, 12.

gains.¹⁵³ This is similar to the relative gains problem identified in International Relations literature.

Issue framing is a function of a number of perceptive elements. Among them is the language used to describe a problem, e.g. pro-life versus anti-choice, and the reference point of the decision maker, e.g. if one's own gain is smaller than the neighbour's, it may well be perceived as a loss.¹⁵⁴ Similarly, for most people the pain of giving up an asset outweighs the pleasure of gaining an asset, so potential gains have to be disproportionately higher than potential losses for a risk to be accepted.¹⁵⁵ Even the experience of decision making can influence the choices one makes if the selection of a particular alternative generates significant positive or negative feelings for the chooser.¹⁵⁶

Prospect theory provides a good account of the internal process related to how an individual interprets risk and it links decisions to calculations of expected utility. However, it provides little explanation of how individuals interact to solve joint problems or change each other's behaviour.¹⁵⁷ Its results emerge from experiments in highly controlled settings that are quite different from the complex domestic and international

¹⁵³ Christer Jonsson, "Cognitive Theory," in *International Negotiation: Analysis, Approaches, Issues* Second Edition, Victor A. Kremenynuk, ed. (San Francisco: Jossey-Bass, 2002), 285.

¹⁵⁴ Kahneman and Tversky, 10.

¹⁵⁵ Kahneman and Tversky, 13.

¹⁵⁶ Calling it the Dead Loss Effect, Kahneman and Tversky explain that is why people continue to wear expensive shoes that hurt their feet. The frustration of admitting to making a bad purchase or regret over abandoning expensive shoes leads many people to choose the inferior alternative of continuing to wear uncomfortable footwear. Kahneman and Tversky, 15.

¹⁵⁷ Jeffrey Z. Rubin, "Psychological Approach," in *International Negotiation: Analysis, Approaches, Issues*, cited above, 257.

environments from which governmental policy emerges.¹⁵⁸ While not providing a comprehensive theory adequate for analysing strategic interaction among members of the trade policy community, prospect theory and similar models from cognitive science provide insights that have been incorporated into contemporary theories of negotiations and other situations of decisionmaking under conditions of ambiguity and uncertainty.¹⁵⁹

Poliheuristic Theory / Decision Boards

Another theory from the cognitive sciences is poliheuristic theory. Developed by Mintz and Geva (1993)¹⁶⁰, it extends Simon's explanation of satisficing behaviour¹⁶¹ which says that decisionmakers choose the first alternative that satisfies a certain set of minimum criteria. The poliheuristic model depicts decisionmaking as a two-stage process. In the first stage, political leaders reduce the range of options confronting them using a general heuristic decision rule, such as to avoid options that will be politically unpopular. Once the set of feasible alternatives has passed through this first filter, the political leader moves to the second stage, choosing from a subset of remaining alternatives using more

¹⁵⁸ Jonsson, 286.

¹⁵⁹ For example, Cameron and Tomlin (2000) draw on Kahneman's and Tversky's concepts of risk framing in their evaluation of the NAFTA states' risk propensity and resulting responses at the negotiating table, 27.

¹⁶⁰ Alex Mintz, "The Decision to Attack Iraq: A Non-Compensatory Theory of Decision Making," *Journal of Conflict Resolution* 37 (1993); Alex Mintz and Nehemia Geva, "The Poliheuristic Theory of Foreign Policy Decision Making," in *Decision-making on War and Peace*, Nehemia Geva and Alex Mintz, eds. (Boulder: Lynne Rienner Publishers, 1997).

¹⁶¹ Herbert Simon, "Theories of Decision-Making in Economics and Behavioral Science," *American Economic Review* 49 (1959).

conventionally 'rational' criteria such as choosing the alternative that provides the maximum benefits at the minimum cost.¹⁶²

One of the strengths of poliheuristic theory is that it combines rational models that focus on the relative utility of expected outcomes with cognitive theory that focuses on describing empirically-testable processes such as that people are sensitive to the framing of a problem, that they seldom engage in systematic search, and their cognitive limitations prevent them from accurate calculations of expected utility.¹⁶³ Through various experimental simulations, poliheuristic theory attempts to model outcomes under conditions likely to be found in the real world. Nevertheless, laboratory modelling can only approximate the dynamics of the rapidly changing political, social, and economic contexts that influence decision making, and the actions and responses of multiple players. As well, the predictive ability of poliheuristic theory is hampered by its tendency toward ahistorical modeling which provides no way of knowing about the origins of preferences, alternatives or decision criteria and their likely trajectories into future policy decisions.

Poliheuristic theory, prospect theory, and other analytical contributions based in cognitive psychology, underline the importance of decisionmaking models that are both rational (what decision makers ought to do) and cognitive (what they believe they should do or what they want to do). However, while the insights of cognitive models are useful, the shift from laboratory simulations to complex, real-world policy situations is not

¹⁶² Karl DeRouen Jr., "The Decision Not to Use Force at Den Bien Phu: A Poliheuristic Perspective, in *Decision-making on War and Peace*, cited above, 12.

¹⁶³ Alex Mintz, "Foreign Policy Decisionmaking: Bridging the Gap Between the Cognitive Psychology and Rational Actor 'Schools'," in *Decision-making on War and Peace*, cited above, 2.

practical without some simplifying assumptions to help determine why some factors are likely to be more important than others.¹⁶⁴ Therefore it makes sense to trace the lineage of cognitive theory to applications that are already in use in the trade policy field. Since much of trade policy creation takes place in formal negotiation settings, negotiation theory – which has been applied to countless case studies in the international trade field – seems an obvious candidate.

Negotiation Theory

Negotiation or bargaining theory should perhaps be more accurately called negotiation theories because it draws from many fields of study, representing a vast number of approaches and assumptions. Helpful to this analysis is the fact that certain branches of negotiation theory are direct descendants of the cognitive theories we have already reviewed. To enhance their explanatory capacity, the cloud-like cognitive elements of these models are strengthened by the bounded rationality conditions of negotiations created (in many cases) by common rules, norms, practices and experience with projected outcomes.

Theories of bargaining and negotiation¹⁶⁵ are derived from what has been observed in actual negotiations, providing positive analysis of what has happened, or normative prescriptions about what should happen or could be done better. Definitions of negotiation vary but almost all contain references to individuals, a goal and some

¹⁶⁴ Sabatier, 4.

¹⁶⁵ This thesis agrees with the assessment made by John Odell (2000, 10) that even though attempts have been made to conceptually distinguish between bargaining and negotiation, the added complexity creates more difficulties than it solves, thus the two terms are used interchangeably.

strategic process where perceived interests serve as the currency of negotiations. We see this in Rubin's definition of negotiation as "individual interaction to change the behaviour of others or bring about the settlement of a dispute where none was possible before."¹⁶⁶ Lax and Sebenius go further to incorporate normative references to the nature of interaction, defining negotiation as "a process of potentially opportunistic interaction by which two or more parties, with some apparent conflict, seek to do better through jointly decided action than they could otherwise."¹⁶⁷ The negotiation itself tends to be depicted as some form of patterned exchange or reciprocal sets of concessions and demands.

The focus on process reveals both the strength and weakness of negotiation theory in trade policy analysis. Through its various frameworks and analytical tools it explains a sub-set of trade policy development activities very well but, because of its narrow focus on a specific activity, it has very little to say about how the negotiators got to the negotiating table or why. Therefore, a broader framework, such as multiple streams is necessary to situate trade negotiations within the wider process of policy evolution.

The foundations of negotiation theory are drawn from economics, sociology, political science, psychology, and business administration. We can say generally that negotiation theory is the child of two parents, the game theoretic, rational approach and the subjective, cognitive approach. To the game theorist, negotiation might be characterized as "communication superimposed on a game" where "communicative acts

¹⁶⁶ Rubin, 257.

¹⁶⁷ David A. Lax and James K. Sebenius, *The Manager as Negotiator: Bargaining for Cooperation and Competitive Gain* (New York: Free Press, 1986), 11.

are moves of the game.”¹⁶⁸ However, the rationality assumptions can be relaxed somewhat through the addition of cognitive elements explaining boundedly-rational behaviour.

Negotiation theory, which has been considered by scholars of diplomacy for centuries,¹⁶⁹ began to be incorporated into broader theories of international decision making in the 1960s.¹⁷⁰ In 1965 Walton and McKersie drew together the work that had been coming out independently from the fields of economics, psychology and sociology through the 1940s and 1950s into one of the earliest comprehensive sets of assumptions about negotiations.¹⁷¹ Their introduction of integrative (cooperative) and distributive (competitive) bargaining strategies remains at the core of many contemporary negotiation theories, including the synthetic utility model that will be introduced later in this chapter.

The contribution of cognitive theory to negotiations is the assumption that there are regularities in cognitive operations among individuals and cultures – not necessarily in content, but in the way that information is processed and messages are interpreted according to prevailing beliefs.¹⁷² Cognitive variables tend to be incorporated into most contemporary models of international negotiations as heuristics or rules of thumb that

¹⁶⁸ Jonsson, 273.

¹⁶⁹ P. Terrence Hopmann acknowledges the work of Francois de Calières (1716) and Fortune Bathélémy de Felice (1778) in “Bargaining and Problem Solving: Two Perspectives on International Negotiations,” in *Turbulent Peace: The Challenges of Managing International Conflict*, Chester A. Crocker, Fen Osler Hampson, and Pamela Aall, eds. (Washington: United States Institute of Peace, 2001).

¹⁷⁰ See Thomas C. Schelling, *The Strategy of Conflict* (Cambridge: Harvard University Press, 1960); Anatol Rapoport’s *Fights, Games, and Debates* (Ann Arbor: University of Michigan Press, 1960); and Charles Iklé, *How Nations Negotiate* (New York: Frederick A. Praeger, 1964). Keohane and Nye used bargaining theory implicitly in the first edition (1977), and explicitly in the second edition (1989) of *Power and Interdependence*.

¹⁷¹ Walton and McKersie, *A Behavioral Theory of Labor Negotiations: An Analysis of a Social Interaction System* (1965), cited in Chapter 1.

¹⁷² Jonsson, 270.

operate as alternatives or adjuncts to rational calculations of utility of strategies and outcomes.¹⁷³ One of the central heuristics of negotiation theory involves the decision to cooperate or compete. This choice is directly related to a second core negotiation heuristic that has to do with the estimation of the utility of the no-agreement alternative (NAA). These will be explored in the sections below.

The Choice of Strategy: Competition Versus Cooperation

Echoing the previous discussion of prospect theory, issue framing and ranking of interests based on individual perception are also taken up by negotiation theory.¹⁷⁴

Perception informs expectations about the probable qualities and actions of individuals in the negotiation.¹⁷⁵ It affects, in particular, the strategic choice of whether to cooperate or compete with the other party during negotiations. This decision has been called the “negotiator’s dilemma,” because it hinges on the choice between behaving cooperatively in order to explore all possible ways to benefit from the negotiated settlement (create value) or to use ‘hard bargaining’ tactics such as demanding concessions from the other party and refusing to yield on one’s own demands in order to claim the largest share of that settlement (claim value).¹⁷⁶

The choice of strategy is not a function of human nature, i.e. that some negotiators are naturally “hard” and others “soft”. Strategic choices are related to the desirability of

¹⁷³ Odell, 28.

¹⁷⁴ For example, a detailed application of Kahneman and Tversky’s work is presented in Chapter 5 of Max H. Bazerman and Margaret A. Neale’s *Negotiating Rationally* (New York: The Free Press, 1992).

¹⁷⁵ Jonsson, 273.

¹⁷⁶ Lax and Sebenius, 5-6; 29-30.

the likely result, the negotiator's estimate of the feasibility of the strategy in question, and the negotiator's predisposition towards cooperation or competition.

The desirability of a particular outcome is measured in terms of whether or not it furthers the interests of the negotiating party. Lax and Sebenius define interests as "the measure and raw material of a negotiated settlement."¹⁷⁷ For each issue, negotiators must have a clear idea of what their interests are in that issue. From this assessment, they derive a set of acceptable positions ranging from minimally acceptable to optimal. In the process of building negotiating positions, negotiators must be able to assess the relative importance of their own interests so that they can strategically trade concessions on lower-valued interests in order to realize gains on more important interests.¹⁷⁸

To assess feasibility of a prospective strategy, the negotiator must have sufficient information about the disposition of the other negotiator toward competition or cooperation. If both parties are prone to competitive behavior, then escalation of conflict will ensue and no acceptable settlement will be reached.¹⁷⁹ Nevertheless, cooperation may not be an appropriate option if both sides are not ready or are unwilling to impart sufficient information to the other side to make joint problem solving a reality.¹⁸⁰

¹⁷⁷ Lax and Sebenius, 87.

¹⁷⁸ Lax and Sebenius, 63-4.

¹⁷⁹ Dean G. Pruitt, "Strategic Choice in Negotiation," in *Negotiation Theory and Practice*, J. William Breslin and Jeffrey Z. Rubin, eds. (Cambridge: Program on Negotiation Books, 1999), 29.

¹⁸⁰ Pruitt, 28.

Consider the following pay-off structure derived from Game Theory¹⁸¹:

FIGURE 1: GAME THEORY PAY-OFF STRUCTURE

		<u>Party B</u>	
		<i>Soft</i>	<i>Hard</i>
<u>Party A</u>	<i>Soft</i>	6,6	2,10
	<i>Hard</i>	10,2	-6,-6

If both parties cooperate they achieve a win-win solution (6 points each). If both parties compete (the hard option), the results are inferior, with low profits for both (-6 points each). If one party competes while the other cooperates, the competing party gets very high profits while the cooperating party receives very low profit (the win-lose outcome).¹⁸² The challenge is to accurately predict what the other party will do and choose a strategy accordingly.

The choice faced by the negotiator is to identify the appropriate balance between the degree of cooperation necessary to reach agreement and the degree of competitiveness necessary to ensure an adequate share of the negotiated settlement.¹⁸³ If one knew from the outset how the other party was going to behave (cooperate or compete), then decisions about what to do would be more straightforward. As well, decisions about what is 'adequate' in a final settlement package are derived from mandates provided at the domestic level by political decision makers.

¹⁸¹ Walton and McKersie, 47.

¹⁸² Terrence Hopmann, "Two Paradigms of Negotiation: Bargaining and Problem-Solving," *The Annals of the American Academy of Political Science* 542 (November 1995), 34.

¹⁸³ Hopmann, 39

Does this mean that negotiating positions are based on perceptions of agreement utility that are fixed from the outset? No, once more the changeable nature of subjective perceptions is an important determinant. As we discuss in detail below, a change in a party's propensity to cooperate or compete – change in strategy – may be directly linked to changes to the perceived utility of the no-agreement alternative and these changes in perception can take place at any time during the negotiation process.

Perception of Utility of the No-Agreement Alternative

If negotiation is “an interactive process by which two or more people seek jointly or cooperatively to do better than they could otherwise,”¹⁸⁴ then an appreciation of what is meant by “otherwise” is essential. The alternative to a negotiated settlement is what defines the lower limit of each party's win set, that is, the set of negotiated settlements that are acceptable to domestic constituents.¹⁸⁵ According to Lax and Sebenius, “For each side, the basic test of any proposed joint agreement is whether it offers a higher

¹⁸⁴Lax, David A. and James K. Sebenius. “The Power of Alternatives or the Limits to Negotiation,” *Negotiation Theory and Practice*, J. William Breslin and Jeffrey Z. Rubin, eds. (Cambridge: Program on Negotiation Books, 1999), 97.

¹⁸⁵ The understanding of win sets as used in this thesis is similar to that found in Putnam, 439-41. The general principle may be traced to Schelling (1960) and elaborated by Kenneth A. Shepsle and Barry R. Weingast, “The Institutional Foundations of Committee Power,” *American Political Science Review* 81 (March 1987). National win sets represent the set of all alternatives that could be negotiated externally that would be accepted by domestic constituents. The joint win set in Figure 2 shows all alternatives that would be acceptable for either side, some of which may be shared. The set of shared feasible alternatives is referred to by Putnam and Lax and Sebenius as the Zone of Possible Agreement. Lax and Sebenius (1986, 48) alternatively refer to this joint set as a bargaining set. However, Lax and Sebenius do not have a name for the set of all alternatives held by both states, including those that do not overlap, even though they depict this set graphically and conceptually. Thus for purposes of clarity in this analysis, even though we use theoretical dynamics that are drawn primarily from Lax and Sebenius we borrow Putnam's terminology to distinguish between the set of all alternatives held by both sides (joint win set) and those alternatives shared by both sides (zone of possible agreement).

subjective worth than that side's best course of action absent an agreement."¹⁸⁶ Therefore, any slight improvement from what could be achieved without an agreement will be the negotiator's bottom line or reservation outcome.¹⁸⁷ Thus, when the perceived utility of the NAA changes, it automatically affects the position of the reservation outcome and the shape of the win set.

Negotiators must constantly keep their eyes on what life would be like without an agreement because the value of this default option is subject to change during the negotiation process and is a critical determinant of what will be politically acceptable in a negotiated settlement. Accordingly, what was not acceptable during early rounds of bargaining may be accepted in later rounds and vice versa. As a result, therefore, the ability to influence another negotiator's perception of the future absent a prospective agreement – the no-agreement alternative – is an important bargaining tool.

For example, Negotiator X attempts to achieve bargaining power by improving his or her own no-agreement alternative or worsening Y's perception of his or her own no-agreement alternative. The rationale for doing so is relatively straightforward: when X's alternative to a negotiated settlement is good, X can take a harder bargaining stance by demanding concessions and refusing to yield, but when X's alternatives are poor, then reaching an agreement is more important. X's bargaining stance must therefore be more cooperative in this situation when his/her no-agreement alternative is poor.¹⁸⁸ Similarly, if Y's perceived utility of his/her no-agreement alternative worsens, Y's strategy will be

¹⁸⁶ Lax and Sebenius (1986), 46.

¹⁸⁷ Odell (2000a), 26-28.

¹⁸⁸ Odell (2000a), 52.

to become more cooperative as the prospective agreement takes on new importance and the cost of losing the agreement becomes greater.

Figure 2 below depicts the joint X and Y win set showing all outcomes acceptable to either party.¹⁸⁹ X_M and Y_M represent the maximum outcomes for X and Y respectively, while X_1 and Y_1 represent the reservation outcomes (minimal outcomes that would be accepted domestically.) At this stage, any agreement in the overlapping win set range between X_1 and Y_1 would be acceptable to both parties. This is the zone of possible agreement. However, if the inner boundary of win set of Y contracted from Y_1 to Y_2 as a result of, perhaps, a more attractive offer from a third-party, outcomes between Y_1 and X_1 would no longer be feasible and the negotiators would find themselves at an impasse because their respective win-sets no longer overlap and the zone of possible agreement (shown at ****) no longer exists between them.

FIGURE 2: EFFECTS OF CHANGING WIN-SET SIZE

The reason for the shift from reservation outcome Y_1 to Y_2 could be any internal or external factor that changes Negotiator Y's perception of the no-agreement alternative

¹⁸⁹ Diagram and explanation derived from Putnam 440-1.

utility and consequently the position of his/her reservation outcome. Although argumentation or persuasion may change a counterpart's mind, negotiation theory is also concerned with the importance of how "moves away from the table"¹⁹⁰ contribute to changes in government policy direction and the negotiator's mandate. In trade policy analysis we might consider such "moves" as an economic crisis that markedly increases the need for a trade agreement to expand export markets, or an election that brings a more liberalizing government to power as having an impact on establishing or changing bargaining positions.

Negotiation Theory Summary

The concept of behaviour based on calculation of risk and reward is not exclusive to bargaining theory. Just as the negotiator attempts to improve the terms of the deal by changing the other party's calculation of the utility of no-agreement alternative, multiple streams calls attention to this same dynamic during the process of coalition building within the politics stream. This is part of the so-called bandwagon effect where support for a coalition begins slowly but picks up speed as potential coalition supporters are enticed by promises of benefit or fear that they will be passed by and left without their share.¹⁹¹

One of weaknesses of negotiation theory, however, is that there is no single dominant analytical approach.¹⁹² This condition is exacerbated by the separations among

¹⁹⁰ Lax and Sebenius (1986), 47.

¹⁹¹ Kingdon, 161.

¹⁹² Zartman, 147.

disciplinary origins and the fact that the field offers a number of useful heuristics for strategic analysis but few comprehensive frameworks within which to situate these heuristics. This thesis has brought together the heuristics of no-agreement alternative assessment, and the strategic response to the no-agreement alternative together in a synthetic utility model of negotiations similar to what is found in Lax and Sebenius (1999), Odell (2000) and Walton and McKersie (1965).¹⁹³ What is needed in addition, however, is an explanatory vehicle in which to situate the dynamics of bargaining and move them into and out of domestic multiple streams decision making processes as required. In the following section, Druckman's turning points framework first set out in this thesis as an example of process tracing, is presented as just such a link. Turning points provide a dynamic model of the negotiation process in which to situate the synthetic utility strategies, as well as a linking mechanism which allows us to join multiple streams decision making to negotiation events.

Turning Points

In an approach reminiscent of two-level games, Druckman focuses on how the interaction between international and domestic factors affects the progress of external negotiations. Negotiation outcomes, he argues, are shaped by "patterned exchanges" between negotiating parties and their constituencies.¹⁹⁴ Moreover, these patterned exchanges are

¹⁹³ Some negotiation theories deal with no-agreement alternative assessment but do not necessarily tie it to the strategic exchange of negotiating offers and responses, some theories deal with patterns of mutual responsiveness but do not make the connection with NAA utility and risk propensity. It is the linkage between these two elements that make this a 'synthetic utility' model.

¹⁹⁴ Daniel Druckman, "Turning Points in International Negotiation: A Comparative Analysis," *Journal of Conflict Resolution* 45:4 (August 2001), 519.

driven by events external to the formal negotiation. While not under the control of either negotiators or policymakers they nevertheless have a profound impact on the shape of outcomes.¹⁹⁵

The turning points approach emphasizes process. Druckman argues that what is acceptable is a function of what is possible and what is possible can only be determined as the negotiation unfolds. The process gradually reveals the preferences of each party to the other and provides “clues as to the nature of the final settlement.”¹⁹⁶

Turning points are the driving force of the process. They are defined as “events that move the process on a trajectory toward or away from agreement,”¹⁹⁷ and they mark the passage from one negotiating stage to the next and signal progress from earlier to later phases.¹⁹⁸ Examples of turning points include the signing of a framework agreement, the establishment of rules for negotiation, the suspension of negotiations, the resolution of an impasse, or any events that are “absorbed” from outside the talks to change the relative evaluations of the terms on the negotiating table.¹⁹⁹

Negotiations halt when a stalemate is reached but can be restarted as a result of some new domestic decision or external influence. According to Druckman, these stalemates precipitate a crisis that may find resolution through a turning point. Throughout the process, “progress from one stage to another is accompanied by turning

¹⁹⁵ Daniel Druckman, “Stages, Turning Points and Crises: Negotiating Military Base Rights, Spain and the United States,” *Journal of Conflict Resolution* 30:2 (June 1986), 358.

¹⁹⁶ Druckman (1986), 329.

¹⁹⁷ Druckman (2001), 519.

¹⁹⁸ Daniel Druckman, “Negotiating in the International Context,” in *Peacemaking in International Conflict*, edited by I. W. Zartman and J.L. Rasmussen (Washington, DC: United States Institute of Peace Press, 1997), 92.

¹⁹⁹ Druckman (2001), 519.

points, just as stalemates are accompanied by crises” and both are caused by identifiable events.²⁰⁰ Crises may be functional to the extent that they alert negotiators to problems that must be solved in order for progress to continue.²⁰¹

Because of the relationship between turning points/crises and changes in the direction of the negotiation, Druckman argues that negotiators may use these events strategically and even orchestrate them as tactical manoeuvres. For example, in the CUFTA case study in this thesis, we will analyze the Canadian suspension of negotiations with the United States and explore whether the Canadian calculation to precipitate a crisis brought about the desired effects.²⁰²

The types of turning points²⁰³ identified by Druckman include the following:

- Procedural turning points, exemplified by changes in format, location or the imposition of deadlines;
- Substantive turning points, such as the introduction of new concepts, new approaches, or new packaging of old proposals,²⁰⁴ and

²⁰⁰ Druckman (1986), 333 and 330-1. For Druckman, stages are identifiable but are not distinct in character. Other analysts identify distinct stages in each negotiation that are distinguishable by a number of specific tasks or objectives that must be met in each stage before it is possible to move on to the next. For example, during the pre-negotiation stage parties work to establish a scope and framework for the negotiations and agree that the negotiation objectives are achievable and desirable. See Janice Gross Stein, “Getting to the Table: The Triggers, Stages, Functions, and Consequences of Pre-Negotiation;” and Brian Tomlin, “The Stages of Pre-negotiation: The Decision to Negotiate North American Free Trade,” in Janice Gross Stein, ed. *Getting to the Table* (Baltimore: Johns Hopkins University Press, 1989); and William I. Zartman, “The Structure of Negotiation,” in *International Negotiation: Analysis, Approaches, Issues*, Second Edition, Victor A. Kremeneyuk, ed. (San Francisco: Jossey-Bass, 2002).

²⁰¹ Druckman (1986), 358.

²⁰² Druckman’s military base analysis similarly indicated that shifting the talks to a higher level may be a useful tactic for resolving impasses and crises. Druckman (1986), 358.

²⁰³ Druckman (2001), 521-2.

²⁰⁴ Druckman (2001), 520.

- External turning points, including leadership succession, the addition of third party assistance, or major shifts in public opinion.

Overall, Druckman provides a detailed explanation of the advancement of the negotiation process through event and behavioural drivers and he also reminds us that a successful settlement outcome is never guaranteed. Impasses occur and their existence might even have strategic value to one side or the other.

Through the combination of turning points and the heuristics of choice of strategy and assessment of the utility of the no-agreement alternative, we have a fairly complete picture of the essential drivers of negotiation. This synthetic utility model of negotiations helps to explain choice of strategy at the negotiation table and consequent outcomes until the negotiation is completed or an impasse is reached. Because of the importance of moves away from the table, however, frequent returns to domestic decision makers are required to assess the effect of ongoing events on the bilateral negotiations. Thus, multiple streams is an important framework for explaining the broader processes of governmental decision making at work during and between external negotiating rounds.

Negotiation theory is a strong complement to multiple streams theory for analyzing Canada-US bilateral trade policy formation. The multiple streams gap, the inability to explain strategic, individual interaction, is filled by negotiation theory. The negotiation gap, the lack of detail about the larger structural influences that brought the negotiators to the table and shape their capacity to make a deal, is covered by multiple streams. As Table 2 illustrates, multiple streams and the synthetic utility model of negotiation are a good fit because each picks up where the other leaves off. As well, when applied in combination, the two meet the minimum conditions for trade policy

analysis set out in this chapter, namely applicability under conditions of ambiguity and uncertainty, applicability in policy areas with domestic and international crossover, applicability, and ability to accommodate and explain strategic interactions through bargaining.

TABLE 2: APPLICABILITY OF FRAMEWORKS TO TRADE POLICY CRITERIA					
	Applicable under conditions of ambiguity and uncertainty	Applicable in policy areas with domestic and international crossover	Applicable under different governance systems	Allows for strategic interaction of individuals through negotiation	Explains negotiation outcomes
Multiple Streams	Yes	Yes	Yes	Yes	External to the model
Negotiation Theory	Yes	External to the model	External to the model	Yes	Yes

Conclusion - From clocks to clouds and back again

Clock-like theories are patterned on theories of the natural sciences in which numerous phenomena lend themselves to the same explanatory logic.²⁰⁵ The starting assumption for clock-like theories of the social sciences is the assumption of single-actor rationality. Because real world policymaking provides little evidence of such rationality in action, the assumptions and conditions associated with the rational model are progressively relaxed until the models begin to approximate reality. In this process we are rebuilding clocks in ever more cloud-like designs so that they might have more relevance and also predictive capacity.

²⁰⁵ Almond and Genco, 489.

Cloud-like theories begin with the assumption of an indeterminate world created by individual interpretation and social interaction. Consequences are more the result of chance than intent. While such models are descriptively accurate for one particular event at one particular time, they are weak as theory because they cannot explain any other moments or events or predict what we can expect in the future. In order to increase the explanatory capacity of indeterminate, cloud-like theories, we make limiting assumptions and narrow our focus to only a few parts of the whole. In this way we are taking clouds and making them increasingly clock-like to build theoretical rigour and predictive ability.

Other analyses of trade policy formation tend to focus on small segments of the process, such as the decision to negotiate an agreement, or the outcomes of the bilateral process, or the domestic response to those outcomes. My intention in this thesis is to expand the focus and to integrate previously segregated elements into a whole and to examine not only how one segment leads to the next but to identify the reciprocal dynamics among them. This approach is a marked departure from single actor or single cause explanations of policy outcomes. It shows instead how policy is the product of the strategic choices of multiple actors operating within the structural constraints that exist within governmental decision-making environments.²⁰⁶

²⁰⁶ Simon and Alm, 467.

Chapter 3

Analytical Framework

Introduction

In Chapter 2, multiple streams theory was proposed as an effective framework for capturing both the fluidity and structure of the process of domestic policy formation.¹

Multiple streams describes how ideas rise on the government's decision agenda to capture the attention of decision makers. This process is the result of a specific configuration of the problem, alternative, and politics streams.

In trade policy applications, multiple streams can carry an analysis to the point of the decision to engage in bilateral bargaining but it cannot move further without additional theoretical propositions. This thesis proposes to expand the explanatory range and depth of multiple streams through the use of bargaining theory. Multiple streams already has a high degree of compatibility with bargaining theory because it includes coalition building as an integral element of issue advocacy in the politics stream. Through the addition of a synthetic utility model of negotiations, this thesis will take multiple streams two steps further. First, it will utilize the dynamics of strategic choice based on the utility of non-agreement alternative to better understand how domestic coalitions are formed in the politics stream. Next, it will apply these same dynamics to understanding how a bilateral bargain is shaped between states. In both the domestic and bilateral sites,

¹ Kingdon, 222-3.

the need for bargaining is linked to an open (or opening) policy window and the mandate for bargaining is shaped by the coupling of streams. Within the multiple streams – bargaining framework, the results of stream coupling affect bargaining possibilities. Similarly, the results of bargaining affect stream composition, coupling, and hence decision making. This extension of multiple streams into bargaining theory is logical because it expands our knowledge of a previously undeveloped area of the theory. Multiple streams depicts a world where an initiative's success depends both on context and human agency but it tells us little about the latter. Without the inclusion of bargaining, it remains unclear *what* strategies are used by policy entrepreneurs to promote preferred positions and *how* these strategies are linked to stream configuration and coupling.

Before we further develop the elements of an integrated model of bargaining and multiple streams, we will review the role that bargaining currently plays in multiple streams and related decision-making frameworks to get a sense of its theoretical treatment to date.

The Role of Bargaining in Decision-Making Models

Multiple streams explicitly acknowledges that bargaining takes place in the politics stream of domestic decision making, but we know very little about what strategies actors use to promote an initiative and neutralize opposition. This is why a more nuanced understanding of the mechanics of joint decision making through bargaining theory is essential because it helps us to understand: (1) the rationale for strategies applied at the

bargaining table (both domestic and bilateral); and (2) how the results of bargaining feed back into the streams of decision making.

Kingdon does not offer much detail about the process of bargaining / coalition building as a part of decision making except that through our understanding of stream coupling, policy windows and policy entrepreneurs, we know where and when it occurs and by whom. Implied is that bargaining has effects on stream configuration and coupling. Conditions that are created through bargaining may affect streams in such ways as introducing a new problem to the problem stream or generating a previously unknown or unconsidered alternative.

As discussed in Chapter 2, Kingdon's policy entrepreneurs attempt to generate support for preferred proposals through persuasion and *quid pro quo* coalition building. In anticipation of an open policy window, they attempt to facilitate stream coupling in favourable ways. Policy entrepreneurs capitalize on such phenomena as tipping and focusing events to bring potential supporters onto the bandwagon while attempting to ensure that in the act of deal making, they do not lose control of the process or the central integrity of the idea.

Policy analytic theories such as pluralism/public choice, policy networks, bureaucratic politics, advocacy coalitions and two-level games share with multiple streams their assumptions about decision making under conditions of complexity and ambiguity where actors operate strategically within a context of bounded rationality. Many of these theories also make explicit reference to the role of bargaining in decisionmaking. However, few theories have dealt directly with the mechanics of bargaining. Those theories that do try to add the detail of bargaining dynamics seem to

run into difficulties remaining attached to the governmental decision making context where they began, even though context should be a major determinant of what strategies will be more successful. As we shall see below, there is a tendency to use domestic conditions as a launching point for bargaining analysis but then to accept initial conditions as fixed and miss the bargaining implications of ongoing domestic change.

Although remarkable because it provides a rare treatment of bargaining in government policy decision making, this lack of integration with context is evident in early pluralist work by Charles Lindblom. In 1955, he constructed a detailed argument to demonstrate that not only is bargaining an important element of policy decision making in democratic governments, it is actually a necessity in order to reconcile competing interests and produce policy innovation.² Calling it the “hidden hand” of government, Lindblom recognised in bargaining “great and inadequately recognized possibilities of social coordination”³ in which bargaining does not only occur between government and external interest groups as standard pluralist accounts would describe, but also between groups within the government itself.

Lindblom defines bargaining as a form of negotiation in which parties induce responses from each other through conditional threats and promises.⁴ His enumeration of bargaining strategies runs the gamut of modern cooperative, and competitive approaches.⁵ They include:

² Charles Lindblom, *Bargaining: The Hidden Hand in Government*, cited in Chapter 1. Lindblom’s insights on pluralist decision making are captured in “The Science of Muddling Through.” *Public Administration Review* 19 (Spring 1959).

³ Lindblom (1955), 2.

⁴ Lindblom (1955), 33.

⁵ Lindblom (1955), 33-4.

- Partisan discussion – where parties attempt to influence each other’s opinions about the objective consequences of various courses of action;
- Compensation – where one party attempts to induce a response from the other party with a conditional promise of benefit;
- Reciprocity – where one or both parties try to induce a response from the other by calling in an existing obligation or acknowledging a new one;
- Authoritative prescription – where one party cedes to the authority of the other;
- Unconditional manipulation – where one party unconditionally alters the advantages or disadvantages associated with a particular choice;
- Prior decision – where one party’s prior decision (such as an alliance with a powerful third party) increases the attractiveness of settlement to the other party; and
- Indirect manipulation – where one party uses any of the above forms of manipulation to induce a third decision maker to exert pressure on the other party.

Although Lindblom’s recognition of a range of bargaining strategies adds detail to the pluralist focus of government as an “‘arena’ where competing groups met and bargained,”⁶ his integration of bargaining and decision making is weak because the goals of bargaining actors are fixed or at least exogenous to the model. Even though Lindblom described his strategies in detail, we are left wondering how bargainers choose the strategies they do and what conditions they require to be effective.

⁶ Howlett and Ramesh, 39.

A related variation on pluralism is found in Graham Allison's 1971 bureaucratic politics model. Similar to Lindblom, Allison adopts the view that in a plural government where power is shared but interests are distinct, political brokerage is the primary mechanism of policy choice. Bargaining within government shapes an interest-driven process of decision making in which "[e]ach player pulls and hauls with the power at his discretion for outcomes that will advance his conception of national, organization, group, and personal interests."⁷

Even though his enumeration of strategies is not as detailed, this later work by Allison attempts to move beyond Lindblom in contextualizing strategy within the broader framework of government decision making for the purpose of coalition building. Allison argues that bargaining is "neither random nor haphazard."⁸ Choice of strategy is conditioned by the "action channels" (sets of routinized governmental processes) that the actors are operating within. An ability to effectively navigate the system of rules governing access channels is key to attracting the support of powerful players. Within the context of action channels, the tools of influence identified by Allison include both formal authority and instrumental leverage achieved through expertise, leadership, or control over information.⁹

Pluralist theory carved out a niche for bargaining through its consideration of how governments seek out winning coalitions among interest groups (Riker 1962). However, it has been criticized as being too simplistic, focusing on group interests to the exclusion

⁷ Graham Allison's 1971 framework is revisited in Allison and Philip Zelikow. *Essence of Decision: Explaining the Cuban Missile Crisis* (New York: Addison Wesley Longman, Inc., 1999), 171.

⁸ Allison and Zelikow, 169.

⁹ Allison and Zelikow, 169.

of ideology, institutions, and group phenomena such as free riding.¹⁰ From pluralist origins, however, there emerged a number of more sophisticated models of group interest intermediation including neocorporatism¹¹, iron triangles¹², and eventually policy networks.¹³ Although these frameworks put greater emphasis on the institutional structures that affect interest group influence on policy, such theories also retained Lindblom's notion of contending interests competing for government attention through some form of bargaining.

One of the network-based descendents of pluralism is the advocacy coalition framework developed by Sabatier and Jenkins-Smith in 1993 that focuses not only on structure but also on the production and promotion of ideas within that structure through various persuasive instruments. Public policy is presented as the manifestation of belief systems encompassing a set of basic values, causal assumptions and problem perceptions.¹⁴

The basic unit of analysis of the advocacy coalition framework is the policy subsystem. This is defined as a set of actors from public and private organizations "who

¹⁰ Howlett and Ramesh, 40-1. Foundational work on pluralism can be found in David Truman, *The Governmental Process: Political Interests and Public Opinion*, (New York: Alfred A. Knopf, 1951), and Robert A. Dahl, *A Preface to Democratic Theory* (Chicago: University of Chicago Press, 1956). Pluralist critique can be found in Mancur Olson, *The Logic of Collective Action: Public Goods and the Theory of Groups* (Cambridge, Mass.: Harvard University Press, 1965) and Anthony J. Downes, "The Other Exchange: Public Interest Groups, Patrons, and Benefits," *Social Science Quarterly* 76:2 (1995).

¹¹ See, for example, Phillipe Schmitter, "Neo-corporatism and the State," in *The Political Economy of Corporatism*, W. Grant, ed. (London: Macmillan, 1985).

¹² See, for example, Douglas Cater, *Power in Washington: A Critical Look at Today's Struggle in the Nation's Capital* (New York: Random House, 1964).

¹³ See, for example, Bernd Marin and Renate Mayntz, eds. *Policy Networks: Empirical Evidence and Theoretical Considerations* (Boulder: Westview Press, 1991).

¹⁴ Paul Sabatier, "Policy Change Over a Decade or More," in *Policy Change and Learning: An Advocacy Coalition-Approach*, Paul Sabatier and Hank C. Jenkins-Smith, eds. (Boulder: Westview Press, 1993), 25.

follow and seek to influence governmental decisions in a policy area”¹⁵ Within a policy subsystem, actors can be aggregated into a number of advocacy coalitions. These coalitions are made up of people from a variety of positions (inside and outside of government) who share a particular belief system and who show a degree of coordinated activity.¹⁶

From time to time, a coalition may adopt a strategy to further its policy objectives and promote the values of its belief system. When coalition strategies are in conflict, a third group of actors known as “policy brokers” might attempt to find some reasonable compromise.¹⁷ New policies or amendments to existing policies are a result of coalition building and issue brokerage. In addition, consistent with their starting point of situating beliefs within structures, Sabatier contends that shifting beliefs (policies) are usually accompanied by changes in institutional processes.¹⁸

The advocacy coalition framework identifies policy-oriented learning as a priority. It describes how the results of new policies feed back into the policy subsystem, causing coalition members potentially to revise their beliefs and alter their strategy accordingly. Such change is not taken lightly because beliefs and power are closely linked. Learning, therefore, is viewed as an instrument of power and members seek to understand the world better in order to further their objectives. This concept is closely linked to one of the central dynamics of the analytical framework that will be presented

¹⁵ Sabatier (1993), 16.

¹⁶ Sabatier (1993), 25.

¹⁷ Sabatier (1993), 18-19.

¹⁸ Sabatier (1993), 19.

in this thesis, that understandings and information acquired at the bargaining table influence the configuration of domestic streams.

Bargaining is implicit in the coalition building and brokerage activities described in the advocacy coalition framework. It is the link between ideas and policy change. Thus, the types of strategies employed in coalition building are informed by the structure of the policy subsystem and the nature and impact of policy learning. The theory's description of the mechanics of coalition building in many ways echoes and expands upon dynamics presented in multiple streams. Just as Kingdon describes how a "short list of ideas"¹⁹ is progressively reduced through the decision making process, Sabatier argues that in most subsystems there are only a small number of influential advocacy coalitions because of the large number of factors required to motivate actors to join issue coalitions.²⁰

Shared as well is the notion that coalitions form around particular ideas. Beliefs held in common serve as the "principal glue" of advocacy coalitions.²¹ Kingdon's description of political actors jumping on a policy bandwagon before it rolls away²² is mirrored in the advocacy coalition framework. According to Sabatier, "If one's opponents pool their resources under a common position, to remain without allies is to invite defeat..."²³

¹⁹ Kingdon, 141.

²⁰ Sabatier (1993), 26.

²¹ Sabatier (1993), 27.

²² Kingdon, 161.

²³ Sabatier (1993), 26.

However, in the advocacy coalition framework, coalitions are not as transient as multiple streams suggests. There are only a few coalitions representing short-term interests because coalition membership is implicitly linked to actors' core beliefs and these are presented as more or less stable over time.²⁴ However, Sabatier allows that trade-offs within and between coalitions are possible because belief systems tend to be hierarchical, i.e. a few core beliefs will be ranked above secondary ones. Consequently, actors will be willing to trade off their secondary beliefs to maintain a strong base of support for their core beliefs.²⁵ This is closely related to the principle in negotiation theory that actors make concessions on lower-valued interests in exchange for gains on higher-valued interests.²⁶

In the longer term, the objectives of an advocacy coalition may change as a result of policy-oriented learning, although (once again echoing multiple streams) change is more likely to occur when the power of the dominant coalition diminishes as a result of external influences such as a change of government. Sabatier explains:

[W]hile minority coalitions can seek to improve their relative position through augmenting their resources and 'outlearning' their adversaries, their basic hope of gaining power within the subsystem resides in waiting for some external event to significantly increase their political resources.²⁷

The advocacy coalition framework presents bargaining strategy as a result of policy learning and the development of cross-coalition support by trading off secondary interests to further core beliefs. In doing so, the model successfully reinforces the need

²⁴ Sabatier (1993), 27.

²⁵ Sabatier (1993), 32.

²⁶ Lax and Sebenius (1986), 86-7.

²⁷ Sabatier (1993), 35.

for strategic adjustment to respond to changing conditions precipitated by changing ideas. According to John, the operation of advocacy coalitions “leaves behind the idea that policy sectors are composed of integrated networks” and proposes instead that they “are a political terrain through which different coalitions fight it out....”²⁸. This argument brings us back full circle to Lindblom’s concept of bargaining as the hidden hand of pluralist governments and Allison’s depiction of governmental ‘pulling and hauling’ in the process of decision making.²⁹

Advocacy coalitions offer useful insights into coalition building but the policy change presented is largely incremental and the ten-year time horizon recommended by the creators for tracking change is not useful for explaining more rapid shifts in strategy by interested actors. By contrast, two-level games offers a much shorter time horizon and ideology takes a back seat to perception. Of particular importance is an actor’s subjective calculation of the benefits of a negotiated bilateral settlement versus the continuation of the *status quo* (introduced earlier as the concept of no-agreement alternative utility).

Putnam’s two-level game model³⁰ depicts success in international negotiations as a function of strategy where power is much less important to outcomes than realist theory would predict. Putnam’s framework shows how negotiators work strategically at and between the domestic and international levels to create domestic conditions that will strengthen the negotiator’s bargaining position at the international level. The identification of strategies is clear in Putnam’s work but not necessarily the efficacy of

²⁸ John, Peter. “Is There Life After Policy Streams, Advocacy Coalitions, and Punctuations? Using Evolutionary Theory to Explain Policy Change,” *Policy Studies Journal* 31:4 (2003), 490.

²⁹ Allison and Zelikow, 171.

³⁰ Putnam (1998), introduced in Chapter 2.

different strategies under different conditions. Building on Putnam's work, Zaharaidis further analyzes the effectiveness of the two-level international strategies under changing domestic conditions.³¹

The central dynamic Zaharaidis explores is the manipulation of the domestic win-set (i.e. the set of all negotiated outcomes acceptable to domestic constituents). In two-level games, changing the size of the domestic win set may be accomplished through one of two strategies: tying hands or cutting slack. The basis of the tying-hands strategy is to convince the other party that certain negotiated outcomes will not be accepted by domestic constituents. If this strategy is successful, then the other party is forced to settle on terms more favourable to the party with the tied hands. For a hands-tied strategy to work, however, the claim that certain positions will not be accepted by domestic constituents must be credible.³²

The cutting-slack strategy involves persuading domestic constituents to permit a broader range of potential settlements at the external table. Its purpose is to increase the size of the win set to give the negotiator a broader range of acceptable negotiated outcomes and more room to manoeuvre.³³ For slack cutting to be successful, the negotiator must be able to "exploit domestic information imperfections"³⁴ In other words, s/he must capitalize on the fact that domestic constituents are not well aware of

³¹ Niklaos Zaharaidis, "Domestic Strategy and International Choice in Negotiations Between Non-Allies," *Polity* (January 2003). Downloaded by license from HighBeam Research, www.highbeam.com, pagination differs from original.

³² Zaharaidis (2003), 4. See also Robert Pahre, "Endogenous Domestic Institutions in Two-Level Games and Parliamentary Oversight of the European Union," *Journal of Conflict Resolution* 14:1 (February 1997).

³³ Zaharaidis (2003), 1.

³⁴ Peter B. Evans, "Building an Integrative Approach to International and Domestic Politics" in *Double-Edged Diplomacy* (cited in Chapter 1), 400.

what is going on at the international bargaining table. Therefore, by adopting various postures at home, negotiators can lead domestic constituents to believe that one type of bargaining is taking place, when their actual negotiating stance may quite different.³⁵

Through his analysis, Zaharaidis provides a closer look at what domestic conditions are necessary for either of the two bargaining strategies to be successful. In some respects, however, this innovation is only a half measure. A limitation in his approach is that while he incorporates the possibility of changing the perceptions of domestic constituents, Zaharaidis retains the original two-level games assumption that the preferences of decision makers/negotiators remain fixed for the duration of the negotiations.³⁶ If unfolding events and perceptions can change the minds of constituents about what outcomes are acceptable, it would make sense to allow for that similar possibility among decision makers. That is why, in this thesis, an attempt is made to incorporate political changes in negotiators' mandates and strategies by remaining attentive to changes in the problem, alternative, and politics streams at home. This allows for greater responsiveness to changing conditions and beliefs as these changes inform the preferences of decision makers and their instructions to negotiators.

The synthetic utility model of negotiations provides a simple but functional model of the bases for negotiator responsiveness and the triggers for strategic adjustment within short time frames. Compared to two-level games, negotiation theory is better equipped to analyze bargaining contained within fluid decision-making processes where changing preferences – not just those of constituents but also of decision makers – can be

³⁵ Zaharaidis (2003), 6. This dynamic is discussed in Moravcsik (1993), 31.

³⁶ Moravcsik (1993), 30.

accommodated. Furthermore, in a final critique of Zaharaidis, if one acknowledges the ways that change in the domestic context affects decision makers in terms of the content of the negotiating mandate and perceptions of acceptable outcomes, then it is not necessary to rely on the negotiator's manipulation of public mood as a central driver of the process. The exploitation of information imperfections can become, more realistically, just one of several strategies employed by negotiators to alter the size and position of the win set.

In summary, the decision making theories that incorporate a role for bargaining seem to either provide a detailed account of context but limited treatment of strategy, or else they enumerate a number of bargaining strategies without really incorporating them into the broader policy-making dynamics. This inability of most theory to fully integrate bargaining strategies with broader influences on policy outcomes is a central problem identified in this thesis. Even though bargaining is repeatedly identified as playing a determining role in trade policy decision making, there are few theoretical tools with which to understand how domestic conditions induce negotiators to pursue certain strategies, and how the results of these strategies may feed back to alter domestic conditions.

To fill this gap, this thesis integrates broad theories of policy formation with more narrowly focused theories that provide insight into negotiators' decisions to cooperate or compete and why. Such mergers are not without precedent. Chapter 2 discussed various types of additions and modifications that have already been proposed for multiple streams by other analysts. The section below discusses attempts to integrate multiple streams

decision making with bargaining, providing a basis for the subsequent analysis in this thesis.

Rationale for the Synthesis of Multiple Streams and Bargaining

The extension of multiple streams to include an appreciation of bargaining dynamics is necessary to understand the mechanics of how policy entrepreneurs build coalitions of support for preferred positions. Kingdon situates policy entrepreneurs in a critical brokerage role, joining problems, policies and politics.³⁷ In the process of decision making, “[i]ndividuals do not control events or structures but they can anticipate them and bend them to their purpose to some degree.”³⁸ Entrepreneurs are like “surfers waiting for the next big wave... [they] do not control waves, but can ride them.”³⁹

We previously discussed Cohen, March and Olsen’s concept of organized anarchy as a metaphor for decisionmaking in organizations. Decisions, they argue, are the product of temporal linkages of problems, solutions, choice opportunities and decision makers. Their metaphor of a garbage can as a framework for decisionmaking challenged the more deterministic aspects of rational choice theory.⁴⁰ The basic ‘garbage can’ framework has subsequently been adapted by a number of theorists including Kingdon (1995) who used garbage can theory as the basis of his multiple streams model, and Tomlin who applied

³⁷ Kingdon, 182-3.

³⁸ Kingdon, 225.

³⁹ Kingdon, 225.

⁴⁰ See, for example, Johan P. Olsen’s “Garbage Cans, New Institutionalism and the Study of Politics,” (cited in Chapter 2), 3.

the multiple streams model to Canadian decision making in 1998 and 2001 and subsequently adapted it for use in international multilateral decision settings (2002).⁴¹

Tomlin augments his multiple stream analysis with extensive prior work on negotiation analysis. With Doern (1991) he produced a comprehensive account of the negotiation of the Canada-US Free Trade Agreement. Although this work focused more on policy content than theory, the authors drew upon negotiation-analytics (Raiffa 1980) to identify potential zones of agreement and risk propensity. More intensive negotiation analysis was subsequently undertaken in Cameron and Tomlin (2000), which combined international relations theory and negotiation analysis in a synthetic framework to analyze the NAFTA negotiations. By adopting two-level games to interpret the inter-state dynamics, the authors were able to incorporate domestic influences and effectively demonstrate that negotiators' responsiveness to domestic constituents affected external bargaining positions. Of relevance to this thesis is Cameron and Tomlin's analysis of how negotiators derived estimates of no-agreement alternatives and developed bargaining strategies in accordance with these assessments.⁴²

Multiple streams was largely kept separate from negotiation analysis until Tomlin's 2002 examination of the multilateral negotiations leading up to the creation of

⁴¹ The dynamics of multilateral or multiparty negotiations are quite a bit more complex than the bilateral or two-party dynamics which are the focus of this thesis. Theoretical attempts to organize and describe multiparty dynamics have been slow to develop. For an explanation of the difficulties and an introductory paradigm, see Larry Crump and A. Ian Glendon, "Towards a Paradigm of Multiparty Negotiation," *International Negotiation* 8 (2003). This issue of *International Negotiation* focuses on the multiparty theme. Tomlin's work on multilateral negotiations and multiple streams is contained in, "Negotiating the Inter-American Democratic Charter: A Garbage Can Model of Multilateral Negotiation," Paper presented to the *Conference on the Inter-American Democratic Charter: Challenges and Opportunities* at the Liu Institute for Global Issues, University of British Columbia, November 12-13, 2002 (used by permission).

⁴² Cameron and Tomlin, 28-9.

the InterAmerican Democratic Charter (IADC). This work marks a unique attempt to integrate the multiple streams dynamics and multilateral bargaining strategy. Tomlin's rationale for the union is similar to the observation made earlier in this chapter that multiple streams emphasizes "the importance of bargaining and coalition building to the process of consensus formation around joint decisions" but says little about "the nature and shape of the bargaining process itself – the presentation and exchange of positions that normally characterize negotiation – except to stipulate that it will occur."⁴³

Since Tomlin had previously opted for two-level games to link domestic processes to the NAFTA negotiations, it would be natural to return there again for the IADC analysis given that theory's explicit acknowledgement that "[d]iplomatic strategies and tactics are constrained both by what other states will accept and domestic constituents will ratify."⁴⁴ Two-level games also offers strategic options informed by domestic conditions, such as hands tying or cutting slack.⁴⁵ It also offers an explanation for state-to-state dynamics through the position of win sets. Two-level games theory even grounds its understanding of international bargaining in the work of negotiation analytics theorists.⁴⁶ The problem with two-level games, however, is that it does not explore the formation of domestic preferences beyond the basic tenets of public choice, i.e. that there are some settlements resulting from international negotiations that domestic constituents will accept and some that they will not. Two-level games does not describe the conditions under which certain proposals may have greater resonance with the public nor what

⁴³ Tomlin (2002), 7.

⁴⁴ Andrew Moravcsik, "Introduction," *Double-Edged Diplomacy* (cited in Chapter 1), 15.

⁴⁵ Putnam, 440. Hands tying versus cutting slack are central to the Zaharaidis analysis as well.

⁴⁶ Among the negotiations theorists cited in Putnam's 1988 *IO* article are Druckman, Raiffa, Walton and McKersie, Winham, and Zartman.

strategies may be employed to promote certain proposals over others. Therefore, Tomlin attempts to deal with the complexity of multilateral negotiations through multiple streams – a framework that already offered effective tools for conceptualizing and analyzing domestic decision making under complexity.⁴⁷

Generally speaking, merging theories requires finding compatible junction points from which to move from one theory to another and a careful examination of the assumptions of each theory for mutual compatibility. There exist a couple of potential pitfalls to be aware of in the attempt to extend one theory's range or explanatory power by bringing on board the assumptions and dynamics of another. In moving from one theory to the next, the shift should not require us to violate the principles or assumptions of the first theory in order to reconcile it with the second. A theoretical merger is of very little value if one has to claim that certain things are true when using one part of the theory but not true when using another part. Allison, echoed in Zaharaidis (1998), warns that when blending theoretical lenses it is "imperative to delimit clearly and carefully each lens's internal logic and applicability."⁴⁸

Tomlin similarly advocates a parsimonious approach to linking the essential dynamics of negotiations with the main characteristics of organizational decision processes.⁴⁹ He makes the case for compatibility at the level of analysis by conceptualizing negotiations as systems "where organizational choice is characterized by bounded rationality, and the process of agenda setting, searching for alternatives, and politics proceed on largely independent tracks, combining fortuitously when windows of

⁴⁷ Zartman (2002), 218 cited in Tomlin (2002), 6.

⁴⁸ Zaharaidis (1998), 435.

⁴⁹ Tomlin (2002), 4 and 6.

opportunity happen to open.”⁵⁰ Additionally, Tomlin observes that multiple streams’ identification of the decision environment as an anarchic system where fluidity and unpredictability are the norm applies equally well to international negotiating environments as it does to the domestic settings that are traditionally the focus of multiple streams analysis.⁵¹

Multiple Streams – Extensions and Departures

This thesis suggests that it is possible to conceptualize the process of policy evolution - including domestic and bilateral bargaining - as a set of interlinked decisions and that these sub-decisions can be analyzed using existing multiple streams tools. Based on the literature reviewed to date, no one else has extended multiple streams in quite this way. Tomlin’s multilateral analysis removes many of the divisions between multiple streams and bargaining, but his IADC work uses a rather complex bargaining model of threshold adjustment rather than the simpler synthetic utility model proposed here.⁵² Simon and Alm similarly take on a complex environmental policy problem involving international negotiations and domestic multiple streams decision making. They note the difficulties with multiple streams in dealing with post-decision policy development:

⁵⁰ Tomlin (2002), 6.

⁵¹ Tomlin (2002), 3.

⁵² Daniel Druckman’s threshold-adjustment model analyzes complex processes of delayed mutual responsiveness among parties. It requires considerable insight into the incremental development of negotiating positions on an issue-specific basis in contrast to the synthetic utility model which tracks changing perceptions of no-agreement alternative through a much broader lens. Nevertheless, the threshold adjustment model is a theoretical adjunct to Druckman’s conceptualization of turning points as a driver for negotiations (discussed in Chapter 2) and the dynamic of turning points is retained in this thesis as part of the synthetic utility model of bargaining. See “Turning Points in International Negotiation,” *Journal of Conflict Resolution* 34:2 (1990).

Because his focus is agenda setting, Kingdon's policy window framework essentially stops before legislation is passed; yet it was never certain that clean-air legislation would pass, even though momentum was generated by Bush's election and campaign pledge to be an environmental president. Further, we cannot predict the content or strength of the legislative package that will be passed nor the likelihood that it will be successfully implemented. These questions involve issues at the international level, the policy-process level and the individual level of analysis.⁵³

Although Simon and Alm attempt to explain the process of policy content formation through a domestic lens that also allows for the influence of bargaining, their approach differs from the one in this thesis. After completing their explanation of domestic policy choice through the streams model, they move on to utilize game theory to analyze the bargaining elements. Unlike the method proposed in this thesis, however, Simon and Alm never return to the streams model to explain any of the subsequent domestic dynamics set in motion by bilateral negotiations.

While somewhat novel, the extension proposed here of alternating between bargaining and multiple streams analyses is consistent with the principles set out in the multiple streams literature. In Zaharaidis' (1995) application of multiple streams to privatization policies in Britain and France, he defines decision making as "the process by which policymakers make an authoritative choice from a limited set of previously generated alternatives."⁵⁴ Based on this definition, if the process of bargaining during the development of policy content generates new alternatives or problems requiring that new decisions be made, we can assume that the dynamics of multiple stream policy choice will be re-engaged to facilitate these new demands for decisions. Thus, the formation of

⁵³ Simon and Alm, 466.

⁵⁴ Zaharaidis (1995), 34.

policy content can be conceptualized as a series of sequential sub-decisions that are propelled toward the creation of a final agreement or policy output.

Synthetic Utility Model of Negotiations

What are the essential dynamics of bargaining that must be integrated with multiple streams in order to extend the latter's range and explanatory power? The central objective of negotiation theory is to understand how joint decisions are made in an environment where parties attempt to induce others to support their ideas and proposals through persuasion or coercion. Within the field of negotiating theories the main preoccupations may be roughly classified as: explanations of behavioural responses through expected utility and optimal choice models in the domain of negotiation analytics (Raiffa 1982, Lax and Sebenius 1986, Odell 2000); explanations of strategic choice in interdependent decisionmaking settings through game theoretical models (Nash 1950, Brams 1994, Morrow 1994); explanations of different negotiating behaviour as a function of different cultural settings (Cohen 1997); and explanations of negotiating power under conditions of asymmetries of power between parties (Zartman and Rubin 2000).

Among these approaches, negotiation analytics can claim a number of natural linkages to multiple streams because both can be applied across cultures, under conditions of bounded rationality, and the negotiating actors can be either monolithic states or actors involved in complex coalition building strategies with varied communication and decision rules.⁵⁵ As already discussed, the central actors in the

⁵⁵ Lax and Sebenius (1999), 234.

negotiation-analytic approach are parties with interests shaped by perceptions of alternatives to negotiated agreement. The basic strategies employed are the linked processes of cooperating or competing in an effort to create a favourable outcome.⁵⁶

As introduced in Chapter 2, a broadly applicable framework from the negotiation-analytics approach is a synthetic utility model that focuses on decisions of whether to compete or cooperate based on perceptions of the subjective utility of no-agreement alternative. The choice of strategy may be re-evaluated throughout the negotiation process as parties encounter turning points that move them toward or away from settlement. The synthetic utility model is well suited to the case studies presented in this thesis because relatively good estimates of choice of strategy and response can be made from a combination of in-person interviews, government documents, and secondary literature.

Whether the objective is to build a domestic coalition or an international agreement, negotiators are part of a larger decision-making unit directed by their political masters. They approach the table with a mandate - a set of negotiating instructions - worked out through a domestic process of political decision-making. If, at various points during the process the negotiations break down, negotiators must return to the sites of domestic decision making to re-evaluate alternatives.

In order to capture the incremental nature of negotiations and ongoing domestic assessment of progress, goals, and strategies, the basic dynamic of strategic choice based on no-agreement alternative utility is situated within a broader framework of turning

⁵⁶ Lax and Sebenius (1999), 224. A full negotiation-analytics approach is described in Sebenius, *Dealmaking Essentials: Creating and Claiming Value for the Long Term* (Boston: Harvard Business School Press, 2000).

points. A model of strategic choice in negotiations that includes turning points provides us with benchmarks from which to track the evolution of the process and keeps the focus on domestic response as a central determinant of what takes place at bargaining sites – both domestic coalition building in the politics stream and bilateral bargaining at the state-to-state level.

With the integration of these models, we are able to complete an incremental feedback loop of policy development. The coupling of domestic streams and the opening of a policy window provide the impetus for a decision to negotiate bilaterally, together with the broad strokes of the mandate to be pursued and the bargaining strategy to be followed. Following the passage of a decision through a policy window, the synthetic utility model provides us with an understanding of the strategic choice to cooperate or compete in bargaining based on the perception of the NAA utility and progress based on turning points. From time to time the results of bargaining will require domestic reassessment in terms of strategy and mandate. This domestic assessment process is intrinsically linked to the multiple streams framework where perceptions of problems, alternatives, and politics – and their coupling – shapes and revises the mandate and strategy that negotiators will bring to the next phase of bargaining.

Recapitulation and Research Question

As we reviewed earlier in this chapter, bargaining has been incorporated into decision making models with varying degrees of success in the past. Without explaining the rationale for bargaining from a broader view of decision-making, the insights that one provides to the other are limited. Because of its flexibility and ability to deal with

complexity, multiple streams is a useful backdrop for negotiation theory and other models of strategic choice. The challenge, however, is not simply to show how multiple streams sets the stage for bargaining but to explore how the results of bargaining feed back into the decision streams, perhaps changing the stream composition and coupling in the process. This challenge can be formulated as the following research question:

What is the role of problems, alternatives, and politics in first situating the decision to enter negotiations – to build domestic coalitions or bilateral agreements - and then in shaping and refining the negotiating positions of the actors involved?

The answer to this question helps to both guide the process of framework synthesis and provide new insights into areas of policy making that have historically been kept on separate analytical tracks. The existing work on multiple streams and negotiating models provides a starting point to help us make logical inferences about the scope and nature of their explanatory power when combined. Subsequently, through case study analysis, we will be able to return to the research question to determine to what extent the answers provided by the models can be observed in actual policy cases.

Theoretical Propositions and Conceptual Framework

To understand the evolution of a trade policy initiative from a domestic decision to an international agreement, this thesis has argued for the importance of incorporating bargaining within a multiple streams model of domestic decisionmaking. Through the added element of bargaining analysis, we are better able to understand how interactions

with external actors during bilateral bargaining and domestic actors during coalition building affect the shape of the final agreement.

We can set this argument out in the form of a few propositions:

1. *The complex processes leading up to the decision to negotiate a bilateral trade agreement shape and constrain what is possible in the negotiations themselves. These processes are the product of specific couplings of the problem, alternative and politics streams.*
2. *Stream dynamics similarly shape and constrain the need for, and the results of, the domestic bargaining that takes place to build coalitions or to solve problems that cannot be dealt with through a bilateral agreement alone.*
3. *The results of bargaining - bilateral and domestic - feed back into the domestic politics stream where they may influence the nature of streams or the dynamics of stream coupling that continues until a final policy output is achieved.*

Thus,

The reciprocal processes of bargaining and stream coupling form an incremental and progressive cycle of policy content development.

In the next section these basic theoretical propositions are elaborated in more detail and linked to their theoretical origins in the literature we have already reviewed. Also, the model that is being presented is represented graphically in Figure 3. In this figure, we see domestic streams combining in various ways (including coalition building in the politics stream) in order to build support for a particular decision (configuration of stream coupling) to negotiate bilaterally. The government's willingness to act on this

decision is represented by the open policy window. The mandate and strategy (based on NAA utility) that inform bilateral bargaining are shaped by the domestic decision.

Bargaining continues at the bilateral level until an agreement is reached or a turning point away from settlement occurs and negotiators return to domestic decision makers in the politics stream for a new mandate. The decision to revise the mandate and the shape it will take is determined once again by the current configuration of the problems, alternatives and politics streams. The return to domestic streams from bilateral bargaining may at times require a return to domestic coalition building as well. Each new decision to revise mandate or change strategy represents a new configuration of coupled streams passing through a policy window.

FIGURE 3: INTERACTION OF MULTIPLE STREAMS AND BARGAINING

* Domestic bargaining is set in dashed circle to illustrate that domestic bargaining takes place within the domestic politics stream. In contrast, bilateral bargaining departs from, and then returns to, the domestic politics stream.

Process Description

1. *The complex processes leading up to the decision to negotiate a bilateral trade agreement shape and constrain what is possible in the negotiations themselves. These processes are the product of specific couplings of the problem, alternative and politics streams.*

Multiple streams theory explains how decisions are the product of a number of antecedent factors as one problem becomes distinguished from a number of others to rise to prominence on the decision agenda and become the focus of governmental attention (Kingdon 1995; Zaharaidis 1995). Successful policy proposals are the result of the coupling of problem, alternative and politics streams in specific ways at given moments in time. Bandwagons, tipping points, spillover and policy entrepreneurs facilitate particular stream couplings that bring certain problems and certain solutions together and make them more or less attractive to political decision makers (Kingdon 1995; Zaharaidis 1995).

A proposal's success is determined in the politics stream by the amount of support that can be generated for it. Changes in the domestic politics stream are the product of changes in national mood, the effect of organized interest groups and changes in government including government turnover and shifts in institutional jurisdiction (Kingdon 1995; Zaharaidis 1995). Policy entrepreneurs play an important role in creating support for a proposal in the politics stream (Kingdon 1995; Zaharaidis 1995).

The decision to negotiate a trade agreement is the result of a particular configuration of coupled streams passing through an open policy window. Window

opening is the product of stream coupling, i.e. the existence of a problem and governmental will to act on it (Kingdon 1995; Zaharaidis 1995).⁵⁷ Government negotiators move to the negotiating table with a mandate that reflects the principles and objectives embodied in the successful domestic proposal. This mandate provides direction to the negotiators on the specific goals to be achieved through joint bargaining (Lax and Sebenius 1986). As far as possible, the mandate will also delineate the range of the negotiations –i.e. the permissible win set, and dominant strategy to be employed (Putnam 1988; Zaharaidis 2003). In this way, streams dynamics shape the negotiations by informing the content of the bargaining mandate. Put another way, the negotiator's mandate comes in through an open policy window.

The bargaining strategy employed will be the product of assessment of the subjective utility of the no-agreement alternative. As discussed in Chapter 2, a poor NAA will usually imply a cooperative strategy because of the importance of a negotiated settlement to the party, while a strong NAA will usually induce more competitive tactics (Lax and Sebenius 1986). As the NAA is built on subjective perceptions, the ideas, values and beliefs that are dominant in the domestic streams have a direct correlation to bargaining strategy.

During negotiations, actors engage in a reciprocal process of offer and response. While negotiations continue, they can be tracked according to the procedural or substantive turning points that move the process toward or away from resolution (Druckman 1990; Druckman and Harris 2001). When negotiations cease or new

⁵⁷ In Chapter 2 it was noted that political change such as government turnover can also be the primary driver of policy window opening, thus the government's desire to do something will prompt a search for amenable problems and solutions to match to this desire.

conditions come into play, negotiators must consult with political decision makers to determine next steps. This consultation may result in a reconsideration of goals or strategies to achieve them.

2. *Stream dynamics similarly shape and constrain the need for, and the results of, the domestic bargaining that takes place to build coalitions or to solve problems that cannot be dealt with through a bilateral agreement alone.*

What was not mentioned in the prior description of stream coupling influencing the decision to pursue bilateral negotiations is the role of domestic negotiations in the process. Kingdon's multiple streams model also identifies coalition building through bargaining as an essential element influencing the shape of the politics stream and ultimately the alternative selected by government. However the multiple streams model does not delve much beyond the identification of bargaining's importance to explore the strategies employed in bargaining, nor does it explain how the configuration of streams influences the choice of strategy. This extension of Kingdon is the contribution that this thesis makes to multiple streams theorizing.

Domestic coalition building in the politics stream takes place "through the granting of concessions in return for support of the coalition, or as actual or potential coalition members make bargains."⁵⁸ The unambiguous linkage between bargaining and coalition building in the politics stream serves as a junction point between multiple streams and the synthetic utility model of bargaining. In the extension of multiple streams

⁵⁸ Kingdon (1995), 159.

presented here, it is argued that actors attempting to build coalitions (or being enticed to join a coalition) will base their decisions on subjective assessments of NAA utility in a process similar to what is described in bilateral bargaining.

The strategic decisions actors face in domestic bargaining are not only whether to support the coalition or not, but when and how to jump on the coalition bandwagon in order to make the greatest gains. Kingdon describes how potential coalition members hold out until the greatest gains are available⁵⁹ or jump on a bandwagon in order to avoid being left behind.⁶⁰ This correlates closely with the dynamics described in the synthetic utility model where actors choose to compete or cooperate based on their assessment of their own no-agreement alternatives. The strength of adding the synthetic utility model to multiple streams is that by linking the estimates of the utility of the no-agreement alternative with domestic stream coupling, we can develop a more precise account of why and when actors choose to cooperate or compete. Furthermore, we can see how changes in domestic streams can change bargaining strategies in either bilateral negotiations or domestic coalition building.

There are a few differences between domestic and bilateral bargaining as they are operationalized within the multiple streams-synthetic utility model in this thesis. First, domestic bargaining is part of the process that attempts to create a proposal that will successfully pass through a policy window. By contrast, bilateral bargaining takes place to attempt to fulfill a negotiating mandate that has already passed through a policy window in the form of a successful policy proposal. Secondly, domestic bargaining takes

⁵⁹ Kingdon, (1995), 161.

⁶⁰ Kingdon (1995), 159-60.

place within the politics stream, while bilateral bargaining takes place outside of the domestic streams environment although, as discussed below, the results feed back into the domestic politics stream.

Despite these few differences between bilateral and domestic bargaining, an important element identified here is that not only are the two processes cyclically linked in the process of policy development, we can also observe elements of interdependence between domestic and bilateral bargaining. In this section, for example, we outlined how domestic bargaining can facilitate the bilateral process by creating favourable domestic conditions to pursue bilateral talks. Section 3 of this process description will elaborate on how the results of bilateral bargaining may require or set in motion further activity within the domestic streams, such as to help solve problems or resolve impasses that cannot be dealt with through bilateral bargaining alone.

Although theory tends to treat bilateral bargaining and domestic processes as separate entities, within real-world policy development the divisions between domestic processes and bilateral bargaining are not always clear cut. This thesis has argued in favour of recognizing the linkages between domestic processes and bilateral bargaining and the existence of domestic bargaining in decision making. There is, however, an additional dynamic that must be permitted to allow for attempted interventions by external actors on domestic processes, that of cross-border advocacy or lobbying by actors into the domestic politics stream of the other party.

In trade policy case studies we can anticipate situations where government officials, politicians, or interested stakeholders will attempt to influence others across national borders through phone calls, meetings, etc. These interventions from external actors can

be accommodated by the model within the domestic politics stream and, at times, they may even be recognized as bargaining. There are two reasons for situating cross-border interventions within the domestic politics stream and not as part of formal, bilateral bargaining level. First, both cross border and domestic bargaining tend to take place as informal interactions between individuals. More importantly, however, both cross-border advocacy and coalition building among domestic actors have the similar objective of building a basis of support for a particular proposal *before* a decision passes through a domestic policy window. By contrast, formalized bilateral bargaining aims to create the terms of a joint agreement *after* a decision to negotiate has passed through the domestic policy window.

3. *The results of bargaining – bilateral and domestic - feed back into the domestic politics stream where they may influence the nature of streams or the dynamics of stream coupling that continues until a final policy output is achieved.*

When bilateral negotiations cease for substantive reasons (e.g. impasse) or for procedural reasons (e.g. scheduled cessation of negotiation rounds), negotiators return to consult with domestic decision makers. An impasse represents a turning point away from settlement and negotiators must reassess their objectives and the strategies required to fulfill them (Druckman 1990; Druckman and Harris 2001).

Once more, this is an area where existing theory has little to offer once the boundary between bargaining and other sorts of domestic decision making processes is crossed. Various negotiation theorists mentioned in this thesis, such as Druckman and

Harris and Lax and Sebenius, have emphasized the importance of domestic influences on negotiations but these theorists have little of explanatory value to offer about the influence of negotiations on domestic conditions. Once again, this thesis links the two levels of analysis by fusing discussions about bargaining strategy and mandate to assessments that are the product of domestic streams configuration. Furthermore, multiple streams provides the added benefit of depicting the domestic processes surrounding bilateral bargaining as highly fluid and also allows us to consider the role of bargaining at the domestic level using similar theoretical assumptions.

It is argued here that the outputs from both levels of bargaining are grounded in the politics stream. Domestic coalition building actually takes place in the politics stream, while bilateral bargaining is the product of a decision moving from the politics stream and through an open policy window. The politics stream thus operates as a channel providing inputs to, and receiving outputs from, the bilateral bargaining table. These outputs are reintroduced to domestic processes through the politics stream but they do not remain there. The results of negotiations may also have implications for other streams. The process of domestic reassessment of bargaining progress is itself a new decisionmaking opportunity since it puts a new problem on the domestic agenda requiring that new alternatives and political interests be considered in light of any changes that have occurred in the problem, alternative or politics streams since the original decision to negotiate was made (Zaharaidis 1995).

During domestic reassessment, if goals are being met, no change in strategy is required unless other events away from the table (domestic or international) have changed decision makers' estimates of NAA utility (Lax and Sebenius 1986). If goals are

not being met and, for example, an impasse has occurred, then a change of goals or the strategies used to achieve them is required. The basis for a new mandate (or decision to abandon the negotiations entirely) will be derived from renewed consideration of multiple streams input.

Once reassessment has occurred and streams activities inform the new decision/mandate for the next period of negotiations, parties return to the table in the hopes that their renewed approaches will trigger a turning point back toward settlement (Druckman 1990; Druckman and Harris 2001). Once external negotiations restart, they continue until resolution or until they are abandoned, punctuated by returns as necessary to the domestic level for reassessments and new decisions.

The model (summarized in Box 1 at the end of this chapter) shows how the reciprocal processes of bargaining and stream coupling form an interactive cycle of policy content development. The model is incremental in that the interplay between domestic streams and bilateral bargaining dynamics continues until a final agreement is reached or bargaining is abandoned. Through this cyclical approach the process of policy content development is permitted to be both fluid – dependent on chance and opportunity – but also structured and predictable to the extent that we understand the rationale for the tools employed and the actions taken.

The multiple streams-synthetic utility framework emphasizes the role of bargaining as an integral tool of decision making. Similar to the rest of the process of policy evolution, bargaining is not a static or one-time exercise. Except where very simple exchanges are involved, bargaining is an iterative process requiring frequent returns to political decisionmakers to review and refine negotiating positions in light of

new perceptions, proposals, or interests – conceptualized here as changes in the problem, alternative or politics stream.⁶¹ Strategies based on perceptions of what is desirable and possible are played out at the negotiating table. Sometimes these strategies are successfully realized but, when impasses or misunderstandings occur, these strategies must be thought through again, informed by the perceptions of domestic decision makers about the problem, alternative, and politics streams.

Conclusion

In this chapter it has been argued that the central driver of decision making in systems of organized anarchy is the coupling of the problem, alternative and politics streams in specific ways. Policy entrepreneurs facilitate the passage of particular stream couplings through open policy windows and bargaining plays a role in creating coalitions of support in the politics stream. The configuration of stream coupling helps to shape the mandate of negotiators and their approach to negotiations. Thus, the complex decision making processes leading up to the decision to negotiate a bilateral trade agreement also shape and constrain what is possible in the negotiations themselves. Because of the iterative nature of the negotiation process, impasses in bargaining, or events that reconfigure stream coupling may require negotiators to return to political decisionmakers for new or refined positions. Therefore, this thesis makes the argument that the results of bilateral bargaining feed back into the domestic policy environment and that the presence of these

⁶¹ The negotiations literature provides numerous examples of analyses that focus on the importance of temporal and substantive stages, moves, or increments to the shape of final outcomes, e.g. Brams 1994, Stein 1989, and Sebenius 1996.

new conditions may serve to change the nature of streams, the dynamics of coupling, or the bargaining strategies called into play.

The cyclical dynamics set out in the multiple streams-synthetic utility model depict one process feeding into another but it is important to note this is not a sequential series of discrete events. While bargaining is taking place at the bilateral level, it is inevitable that the domestic streams will be changing in the meantime: new problems are being recognized, new solutions are rising to prominence, and new configurations of political interest are taking shape which may be the product of domestic bargaining running concurrent with bilateral bargaining. As Kingdon calls to our attention, streams proceed independently, developing according to their own dynamics and rules, but they also converge at opportune moments to shape the range of the future possibilities.⁶²

In the next chapter, we will begin the first of the analytic case studies. Chapter 4 will cover the domestic decision making processes leading up to the negotiation of the Auto Pact and Chapter 5 will examine the bilateral negotiations and the domestic dynamics linked to them. A similar organizational structure will be followed in the analysis of the CUFTA in Chapters 6 and 7. A summary and conclusion will be presented in Chapter 8.

⁶² Kingdon, 19.

BOX 1: SUMMARY OF THE PROCESS

AGENDA SETTING AND ALTERNATIVE SPECIFICATION IN THE DOMESTIC STREAMS

- A problem is identified as a priority and is matched with a particular solution proposal as a result of coupling of the problem, alternatives and politics stream.
- Change in the problem stream is recognized through indicators, feedback, focusing events.
- Change in the alternative stream takes place as a result of persuasion and diffusion of new ideas through the policy community; consensus building and tipping points play a role as ideas compete for attention.
- Change in the politics stream is affected by national mood, government turnover, jurisdictional issues, and the balance of organized interests; coalition-building, policy entrepreneurs and bandwagons play a role.
- Coupling is the union of particular configurations of streams at a given moment. Coupling produces a problem-alternative set, a problem-politics set, or an alternative-politics set
- A policy window opens because of a convergence of politics and problem streams, i.e. a problem is linked with a governmental will to action. These windows provide opportunities for specific couplings to be considered by policy makers.
- Policy entrepreneurs try to push specific problem-solution sets through windows.
- Support in the politics stream may depend on the existence of domestic coalitions (see below).
- A bilateral negotiation mandate is formed through streams dynamics – the result of a particular streams configuration passing through a policy window.

DOMESTIC BARGAINING AMONG STAKEHOLDERS

- Domestic bargaining takes place in order to build support among domestic stakeholders for a particular initiative (e.g. a decision to negotiate bilaterally) or to solve a problem that cannot be managed through a bilateral agreement alone.
- Domestic bargaining among stakeholders is situated in the politics stream and may occur at any point in the process leading up to or during bilateral negotiations. Domestic bargaining may not, however, be limited to domestic actors. External actors may attempt to influence coalition-building as well.
- The process of stakeholder bargaining follows a pattern similar to the one described below:
 Stream coupling establishes a need for bilateral bargaining as a way to solve a problem or fulfill an objective.
 Bargaining continues until the objective has been achieved or bargaining is halted for substantive or procedural reasons.
 The strategies of parties in domestic bargaining are based on their assessment of the subjective utility of the no-agreement alternative.
 Successful coalition building among stakeholders serves to shape and constrain the range of politically feasible alternatives available to decision makers in the politics stream.

BILATERAL BARGAINING BETWEEN STATES

- Stream coupling facilitates the movement of a political decision through a policy window. Contained within a decision to negotiate is the negotiation mandate that sets out the goals of the agreement being negotiated. Stream configuration informs the type of agreement being sought, conditions for success, and the government's assessment of no-agreement utility.
- The subjective assessment of the no-agreement alternative informs strategy at the bargaining table, i.e. the decision to cooperate or compete. Changes in stream configuration, such as the recognition of new problems, introduction of new alternatives, or altered political opinions of risks and rewards, may change the NAA assessment thereby influencing the parties' disposition to cooperate or compete in negotiations.
- Bargaining continues at the bilateral level until an agreement is completed or until negotiators move back to domestic processes as a result of a substantive turning point (e.g. impasse) or procedural turning point (e.g. scheduled break in negotiating rounds).
- If bargaining has been halted for procedural reasons but domestic decision makers agree that goals are being met and the original mandate is satisfactory, then no additional decisions (informed by streams assessments) are required.

- If bargaining has been halted for substantive reasons such as an impasse, then decision makers must re-evaluate their mandate and strategy, returning to the multiple streams as the source of new input.
- New decisions are based on re-assessments of the various streams and stream couplings (including the politics stream in which bargaining to create or maintain coalitions may be ongoing). The resulting decisions may include ending the process, providing negotiators with a new mandate or strategy, or simply a confirmation of their existing mandate and strategy.
- The interplay between domestic streams and bilateral bargaining dynamics continues until a final agreement is reached or bargaining is abandoned.

Chapter 4

Approaching the Auto Pact

Overview

The Automotive Products Trade Agreement, more commonly known as the Auto Pact, was negotiated between July and December of 1964 and came into force in January of 1965. Its central function was to allow limited, duty-free movement of automotive products between the United States and Canada. The limits imposed by the agreement were designed to protect the smaller and weaker Canadian automotive industry on a temporary basis. Simon Reisman was Deputy Minister of Industry at the time and one of the agreement's principal architects. He would observe later that the Auto Pact "was never intended to be cast in concrete for all time."¹ Nevertheless, the agreement survived in one form or another for more than 35 years and changed the face of Canada-US automotive trade.²

The goal of the Auto Pact was simple: both Canada and the United States wanted to solve an economic problem. The existing arrangements for auto trade had given rise to complaints about subsidization by US auto parts manufacturers. The US auto makers

¹ Canada, *Inquiry into the Automotive Industry: The Canadian Automotive Industry: Performance and Proposals for Progress* (Reisman Report) (Ottawa: Minister of Supply and Services, 1979), iv.

² The Auto Pact obligations were subsumed by the Canada-US Free Trade Agreement. Under the CUFTA automotive goods from the United States had to be admitted duty-free regardless of safeguard levels, and Canada could no longer confer Auto Pact 'status' on manufacturers. As well, the CUFTA rules of origin are quite different from those of the Auto Pact. See Jon R. Johnson, "The Effect of the Canada-U.S. Free Trade Agreement on the Auto Pact," in Maureen Appel Molot, ed. *Driving Continentally: National Policies and the North American Auto Industry* (Ottawa: Carleton University Press, 1993), 265-9.

wanted to rationalize their Canadian production to create a seamless market between the two countries, at the same time as Canada sought to ensure that its auto industry continued to benefit from that rationalization. The final agreement saw the United States permit duty-free entry for all original equipment, parts and vehicles produced in Canada, provided they met a *minimum level of Canadian and/or US value-added*.³

In contrast to those of the United States, the Canadian provisions were more complex. Qualified Canadian producers could import original equipment parts and vehicles from anywhere in the world, provided that they maintained at least a seventy-five percent ratio of Canadian vehicle production to Canadian vehicle sales based on specified calculations of Canadian content. Additionally, in a gesture unprecedented in bilateral trade and industrial relations, Canada also received letters of commitment from the Big Three auto makers (Ford, Chrysler, and General Motors) in which they promised to increase the level of Canadian value on an ongoing basis (for an unspecified term) and to continue to augment the value of Canadian production by at least sixty percent of the value of the growth in Canadian sales. Such content requirements were designed to protect the smaller Canadian automotive industry; and the parties agreed to review these provisions within three years of the agreement's inception. The United States considered the Auto Pact to be a set of temporary measures on the road to full free trade in automobiles and parts, but time limitations on its provisions were never written in to the

³ The minimum content provisions were added so that Canada could not be used as a trans-shipment point for vehicles from other countries trying to qualify as North American.

agreement.⁴ As a result, Canada managed to keep the content requirements in place for the life of the agreement.

Prime Minister Lester B. Pearson and President Lyndon B. Johnson, together with Canadian Secretary of State for External Affairs Paul Martin and US Secretary of State Dean Rusk, met to sign the Canada-United States Agreement on Trade in Automotive Products at Johnson's Texas ranch in January of 1965. For the United States, the agreement was a sectoral free trade arrangement that allowed American manufacturers to rationalize their operations on a continental basis. For Canada, the Auto Pact was a market-sharing arrangement that, in addition to allowing for rationalization of production, ensured that a certain share of North American auto production remained in Canada.⁵

The Auto Pact led to specialization—narrowing of Canadian production to only a few models—and to a significant increase in Canadian production since those few models would be distributed over the entire North American market, thereby maximizing the benefits of economies of scale. As a result, by the end of the 1960s, Canada had reversed the negative trade balance with the United States that had characterized bilateral economic relations since the Second World War. Indeed, investment in the Canadian auto sector was so rapid and so extensive that it raised the ire of some Americans who called the Auto Pact interventionist and investment diverting.⁶

⁴ Interview with Doug Arthur, May 16, 2003. Arthur was a Canadian Auto Pact negotiator from the Department of Industry who worked closely with the Bladen Commission and with Bud Drury during the negotiations with industry required to complete the Auto Pact.

⁵ Paul Wonnacott, *US and Canadian Auto Policies in a Changing World Environment* (Toronto: CD Howe Institute and US National Planning Institute, 1987), 9.

⁶ It is not clear whether the US government anticipated the extent to which investment and jobs in the new North American auto industry would be located in Canada, especially when there existed generous cash incentives from the federal and provincial governments for plant enlargements. Within a few years of the Auto Pact's inception, a number of Americans, including C. Fred Bergsten, Assistant Secretary of the

The main gain of the Auto Pact for Canada was the right to set the terms and conditions under which the major automakers would have access to the Canadian market. It guaranteed that an increasing share of North American production would be located in Canada, together with jobs for Canadian workers to maintain that production.⁷ The result was to develop a common market in automobiles, characterized by harmonized production and the ability to supply customers across the North American market.

The agreement allowed for free trade in automobiles and original parts among auto manufacturers, although not free trade for consumers wishing to purchase across borders. Industrial rationalization also eliminated productivity differences and created upward pressure on Canadian wages towards parity with the United States. Another effect of the Auto Pact was to tie the Canadian economy more closely to the United States than it had ever been before. Consequently, Canadians benefited from US auto demand surges but when US demand lagged, Canada's economy slumped because of the high ratio of auto exports to total exports. The most important impact of the agreement on the Canadian auto industry, however, was to provide the tools for market rationalization to achieve economies of scale.

Although the Auto Pact is today regarded as the bedrock upon which the North American auto industry was built, its creation was by no means easy or inevitable. To better understand the process of domestic policy decision making leading up to the Auto Pact negotiations with the United States, the balance of this chapter will examine the

US Treasury, and Julius Katz, Assistant Secretary of State, were openly criticizing Canada for paying US multinationals to create jobs in Canada instead of the United States. Bergsten and Katz warned that the Americans would not "sit idly by" while Canada pursued interventionist tactics. Such comments are recorded in the Hearing Before the Committee on Finance, United States Senate, 90th Congress, 2nd Session, July 19, 1968 (Washington: Government Printing Office, 1968).

⁷ Don McGillivray, "The Pact That Binds," *Report on Confederation* (October 1978), 9, 10.

particular confluence of problem, alternative and politics streams that led Canada in 1964 to pursue the sort of bilateral trade agreement with the United States that had been previously unacceptable to prior Canadian governments.

To find answers, we look first at the problem stream where the chief concern is how problems get noticed by decision makers in order to capture a place on the decision agenda. Within the problem stream, the main theoretical elements to be aware of are indicators, feedback, and focusing events. After examining the problem stream, we will move to a review of the alternative stream where the central dynamic is the rising (and falling) popularity of policy alternatives in the “policy primeval soup.”⁸ In this stream we are interested in how such processes as persuasion and idea diffusion affect the perceived worth of an idea within the policy community.

The final element affecting whether and how an idea comes to the attention of government is the politics stream. Of the three streams, politics exerts a predominant influence on stream coupling, such as which problems find a place on the decision agenda and which solutions are matched with them. Elements such as government turnover, the balance of organized interests, and national mood may increase the propensity for change in the politics stream, but coalition building is a central instrument for transforming the propensity for change into a specific policy decision. In addition, policy entrepreneurs and the bandwagon effect are important elements of coalition building and there may be external (non-domestic) actors who attempt to influence coalition building in the domestic politics stream.

⁸ Kingdon, 116.

Agenda Setting and Alternative Specification in the Domestic Streams

Problem Stream

Within the Auto Pact process, government attention was intermittently pulled toward potential problems in Canada's auto sector over a prolonged period of time beginning in the mid-1950s. Various indicators, focusing events, and feedback would lead first the Diefenbaker government and then the Pearson government to identify problems in the auto sector but, as we see below, problem recognition was not readily coupled with compelling alternatives or the political will to act. Decisive stream coupling did not take place until well after problem indicators caught the attention of government officials.

The development of the Canadian auto industry was significantly influenced by the dynamics of the Canada-US commercial relationship. In 1904, Henry Ford began ferrying Ford auto frames across the Detroit River to Windsor where bodies and wheels were added so that the resulting vehicles would be classified as Canadian-made and eligible to be sold in Canada and the British Commonwealth tariff-free.⁹

The Canadian auto industry developed according to classic import substitution patterns that allowed for the protection of infant industries behind high tariff walls. While an indigenous Canadian auto assembly industry could never be successfully maintained because of the small size of the market relative to the fixed costs of production,¹⁰ a

⁹ McGillivray, 9.

¹⁰ Among the Canadian auto assemblers were Sam and George McLaughlin, the sons of transportation pioneer Robert McLaughlin. They began manufacturing automobiles in 1907, laying the groundwork for a Canadian auto manufacturing industry. However, the McLaughlin Motor Car Company was sold in 1918 to General Motors and became General Motors of Canada.

number of Canadian firms began to build cars under license from American manufacturers. As tariffs escalated during the 1920s and 1930s—a response to growing trade protectionism on a global scale—US investment in Canadian assembly plants continued to be used to avoid Canada's high rates of duty. These US vehicles “made in Canada” both satisfied Canadian consumer demand and allowed for significant pre-war exports to the United Kingdom, the Caribbean, and Australia.

Despite achieving a temporary comfort zone through Commonwealth preferences and US tariff-avoiding investment, auto makers in Canada could not afford to ignore incipient changes in the market and in their own productive capacity. Advances in production technology were accelerated by consumer demand for more cars, more models and lower prices, creating pressures for industry-wide restructuring. This led to the consolidation of many small American and Canadian firms into a few larger plants that would eventually dominate the North American market. These larger and more diversified plants allowed manufacturers to benefit from economies of scale in order to produce more vehicles at lower prices. However, this opportunity was largely confined to the United States where the huge domestic market could more efficiently transmit demand into change at the level of production.

In Canada, elevated tariffs distorted market signals at the same time as high post-war demand accelerated sales. This tended to create a false sense of security with respect to the auto industry's future in Canada. However, structural factors worked against long-term sustainability. For one thing, the sector's future growth potential was in the hands of a few US branch plants. In the short run, the Canadian plants could service Canadian demand, but they could not compete head to head with American firms in terms of price

or variety of models because of the high production costs that would have to be borne by too few domestic consumers. Because of the tariff, it remained feasible for the US plants to stay in Canada but there was little hope for the future expansion of the Canadian auto industry. Simon Reisman provides an example of the structural difficulties faced by Canada:

When they moved from standard to automatic transmissions, people like Acme Screw and Gear (who were making standard transmissions) were out of business because they could not compete with a plant in the US that puts out as a minimum six or seven hundred thousand automatic transmissions a year. Because if you had four or five manufacturers (including the three big ones), and each of them had half a dozen models, how could you possibly get that scale of transmission production in Canada even if they all used the same transmission?¹¹

In order to keep pace with the changes ongoing in the American industry, Canadian firms would have to expand rapidly to achieve economies of scale. However, the size of the Canadian market was not large enough to absorb the number of vehicles that would have to be produced in order for these larger, faster plants to reach a level of efficient output. When the post-war sales boom cooled and domestic demand began to drop, the structural impediments of the Canadian industry were starkly revealed. The United States had a significant domestic market that Canada, at one-tenth the population, could never hope to achieve. Exports were the only way to keep the industry viable. However, without specialization or economies of scale, Canada had little chance of developing new export markets. Canadians were further limited by the fact that European buyers had little interest in the larger vehicles that had become the norm in North America.

¹¹ Interview with Simon Reisman, January 14, 1998.

Feedback from the automotive community also suggested that Canadian expansion into the United States would be hobbled by the intrinsic link between US nationalism and mythology of the American-made automobile. Reisman describes the prevailing mood at the time:

The CEO of the Canadian subsidiary of General Motors once said to me, 'You don't think that an American buyer going into a showroom who sees a car with a label on the engine that says "Assembled in Oshawa, Canada" will buy that car when he knows that the best car makers in the world are right down the road in Dearborn or Detroit. We'd have to hide the labels. We couldn't advertise the fact that these are Canadian assemblies.'¹²

Feedback such as this warned Canada away from continental production but clashed with indicators from the auto sector suggesting that increased efficiency could be achieved through a continental market. Feedback at a more generalized level pushing toward nationalist policies in the auto sector came through concerns about Canada's economic dependence on the United States and the nation's status as a branch plant economy.

Such concerns were set out in detail in the 1957 Report on Canada's Economic Prospects. More commonly known as the Gordon Report, the study was commissioned by the Liberal St. Laurent government, produced under the direction of future Liberal Finance Minister Walter Gordon, and released under the Conservative Diefenbaker government. In the problem stream, the Gordon Report provided important indicators and feedback regarding the nature and extent of non-resident influence on the economy as a result of foreign direct investment. The Gordon Report detailed how the Canadian economy as a whole was, like the auto sector, constrained by structural factors that

¹² Interview with Simon Reisman, January 14, 1998.

militated against economies of scale because of a relatively small domestic market and reliance on imported technologies.¹³

One of the primary criticisms contained in the Gordon Report was that branch plants were unreliable engines of economic development because Canadian interests could be overlooked when “non-resident owners of the larger companies which have a dominating influence, may not in all cases be aware of the Canadian point of view.”¹⁴ The Gordon Report stood out in a series of warnings about foreign control over the Canadian economy. When Pearson became Prime Minister, internal debates in Cabinet and with Louis Rasminsky, the Governor of the Bank of Canada, continued over ways to reduce the use of imported (largely US) capital to offset Canada’s current account deficit.¹⁵

While the government debated future prospects for the economy as a whole with respect to foreign ownership, the auto sector was facing more immediate problems. Unable to adjust to changing market demands, the years from 1950 to 1961 were problematic for the auto industry and there were mounting indicators to draw governmental attention to the sector. Canada’s change in status in 1950 from a net exporter to a net importer of vehicles marked an early but important focusing event. In the 1950s, exports fell by more than a third while imports from Europe increased by roughly the same amount. Canada’s overall consumption of domestically-produced

¹³ Canada, *Final Report*. Royal Commission on Canada’s Economic Prospects (Gordon Report) (Ottawa: Queen’s Printer, November 1957).

¹⁴ Gordon Report, 392.

¹⁵ Muirhead, 211.

vehicles declined as consumers began to look at smaller, less expensive imports from the United Kingdom, Germany and Japan.

The indicators depicting a national auto industry in decline put the issue on the governmental agenda of the Conservative government but the broader concerns about US ownership of Canadian productive capacity exerted contradictory pressures on government decision makers. With the problem ambiguously framed as either too much US presence, from the nationalist's perspective, or perhaps not enough, from the economic rationalist's perspective, the Diefenbaker government sought technical advice from University of Toronto economist Vincent Bladen in order to better define the problem. Bladen was asked to establish a Royal Commission to investigate the Canadian automotive industry and compare its structure and competitiveness to that of other countries.

The 1961 Bladen Report noted that the most important characteristic of Canada's post-war automotive industry was the preponderance of US manufacturers. Between 1958 and 1960, the Big Three produced almost 98 percent of all vehicles in Canada and they were responsible for 43 percent of all vehicle imports. Big Three sales (production and imports combined) accounted for between 80 and 86 percent of total sales in Canada.¹⁶ Bladen concluded that, on purely economic terms, it made little sense for Canada to have an auto industry in the first place: only General Motors was able to make a modest profit; the export market had dried up; the domestic market was small; and Canadian consumers wanted more than just one or two models to choose from. Short,

¹⁶ Canada, *The Report of the Royal Commission on the Automobile Industry* (Bladen Report) (Ottawa: Queen's Printer, 1961), 21.

fragmented production runs had become the norm and these were the principal reason for the inefficiency of the Canadian industry. Future prospects for the Canadian auto makers looked even worse because, as the technology demanded by the automotive industry became more expensive, ever-increasing levels of output would be required before the new equipment could pay for itself.¹⁷ If Canada was to defy the limitations imposed by economics and geography, it would have to look outside national boundaries for solutions.

Reisman describes the dilemma:

What would [the Canadian subsidiaries of] the Big Three do if they couldn't buy their transmission in Canada because we couldn't make automatic transmissions? They would have to import them; but if they import them, they couldn't meet their 60 percent Canadian content requirement and, therefore, they would be obligated to pay a duty on an automatic transmission that we couldn't make in Canada. This would drive the price way up to the extent that a 17 percent tariff wouldn't give them enough protection to produce a vehicle competitively.

So what do you do? For a while, you forgave them when they couldn't make the 60 percent content on an item and the critical items were transmissions, and engines. The problem was that there just wasn't enough stuff that Canadians could make [efficiently]. Canadian parts makers were small operations—some of them working out of the back of a garage. [It was] quite primitive stuff. The Canadian assemblers and parts manufacturers had, however, been ingenious enough to work within the system constructed by tariffs and Commonwealth content.¹⁸

The Canadian assemblers had learned to achieve reasonable economies of scale using the same assembly line to manufacture half a dozen different models in small quantities. They became very good at adapting and adjusting as the industry and market structure required. But technology caught up with them: automatic transmissions had

¹⁷ Bladen Report, 21.

¹⁸ Interview with Simon Reisman, January 14, 1998.

become standard equipment in North American automobiles and they had to be produced in large production volumes in order to be cost-effective. As a result of the scale limitations of facing Canadian producers, a crisis was created.¹⁹

The challenge of renewing Canadian competitiveness in the auto sector, therefore, was two-pronged. Even if Canada could reduce its reliance on foreign capital and at the same time acquire and operate the new technologies required by the contemporary market, it could not achieve efficient scale within the boundaries of its national market. Both capital and export markets were required and the United States seemed to be the obvious source for both.

Auto sector competitiveness waxed and waned as a priority on the governmental agenda through the late 1950s and early 60s but the Bladen Report more clearly defined the nature of the problem for the members of the policy community. Furthermore, beneath the problem of competitiveness in the auto sector was the question of whether or not the government should attempt to reduce the influence of US multinationals over the Canadian economy as a whole and, if so, whether the auto sector was an appropriate site for such a battle. On the one hand, the high concentration of US capital in the sector made it a natural choice to demonstrate the seriousness of the government's intention to return Canadian productive capacity to Canadian control. On the other hand, any government willing to take on the Big Three would also have to be willing to risk the substantial contribution made by the auto sector to national revenue and employment and the political backlash that would result if the sector went into decline.

¹⁹ Interview with Simon Reisman, January 14, 1998.

Indicators continued to mount but were met with minimal government response beyond incremental improvements to existing duty remission programs. (These will be discussed in the next section on the alternative stream.) It was not until a focusing event in the form of a US trade challenge captured government attention in 1964 and set changes in motion in the politics stream that would precipitate the opening of a policy window and decisive stream coupling.

Because of expansions of the existing duty remission program undertaken by the new Pearson government in 1963, Canadian auto exports in the first quarter of 1964 rose to triple what they had been in the previous year and six times what they had been in 1962.²⁰ The magnitude of this import surge led to complaints to the White House and Congress about job loss in the US auto sector as a result of Canadian policies.²¹

With the exception of the Big Three, which dominated the market on both sides of the border, Canada's nationalist incentive policies angered smaller US producers who would not or could not relocate to Canada and who felt they were being unfairly squeezed out of the market. In April of 1964, the Modine Manufacturing Company of Racine, Wisconsin charged that the Canadian location incentives represented a bounty or grant under Section 303 of the 1930 US Customs Act to which the US could respond with a countervailing duty (CVD) of up to 25 percent.²² Reisman outlines the nature of the complaint:

²⁰ As reported in *Ward's Automotive Reports*, May 4, 1964. See Dimitry Anastakis, *Auto Pact: Business and Diplomacy in the Creation of the Borderless North American Auto Industry, 1945-1971*. PhD Dissertation, York University (November 2001), 131-2.

²¹ The US was particularly disturbed by the relocation of the ill-fated Studebaker plant to Canada in late 1963 as a result of Gordon's relocation incentive program. Studebaker closed in 1966.

²² Reisman Report, 24.

Their argument was that we were using an ingenious subsidization technique. [As a result of the location incentives] we were producing [more] but we weren't subsidizing. You'd be subsidizing if the people buying a radiator in Canada were paying a lower price for that radiator than it was being sold at in the United States. But if the fellow buying it in Canada could afford to pay a somewhat higher price because he got that duty-free right of dollar-for-dollar imports, you would begin to get a rather fine calculation of price differentials and that could be regarded by some as a subsidy. I never admitted that this was a subsidy—just an ingenious device for export promotion—but we worked it in such a way that the price remained competitive and that's not an easy thing to do.²³

Ingenious or not, Reisman and his colleagues were aware that the existing incentives and remission programs would not stand up to the rigorous scrutiny of the US complaints procedure. If an inquiry by the Treasury Department supported the Modine complaint (and Canadian officials privately acknowledged that this was the likely scenario),²⁴ then the US Commissioner of Customs could begin to apply countervailing duties against imported Canadian radiators.²⁵ The Modine complaint, therefore, served as a focusing event forcing the Canadian government's attention squarely on the auto sector. It remained to be seen however, whether the event was serious enough to prompt radical change or more off-the-shelf responses from the alternative stream.

Until the 1964 trade challenge, the problem identified by Canadian decision makers was how to protect Canada's domestic automotive manufacturing sector through incremental tariff adjustments and incentives programs despite economic and technological forces pushing toward continental production to develop economies of

²³ Interview with Simon Reisman, January 14, 1998.

²⁴ "Notes of Meeting of September 19th in the House of Commons Between Mr. Drury and Presidents of the Six Leading Automotive Manufacturers," September 21, 1964, RG 20, Vol. 2053, F.V. 1021-11, NAC.

²⁵ Interview with Simon Reisman, January 14, 1998.

scale. After the Modine complaint, however, a re-definition of the problem was required because it appeared that the future viability of the Canadian auto sector as a whole was in question.

As Kingdon points out problems most often come to the attention of government through routine indicators²⁶ but unless the problems are combined with changes in other streams, governments are pre-disposed to frame the problem in familiar terms even if old interpretations do not reflect new realities.²⁷ By tracing the process of Auto Pact policy development, we can identify two sets of forces acting on Canadian decision makers.

Factors sustaining nationalist problem definition were:

- indicators such as positive investment flows due to US relocation of productive capacity and warnings from the Gordon Report against closer ties with the United States;
- feedback from producers and unions to keep jobs in Canada; and
- focusing events such as Canada's change of status to a net auto importer which, while a minor focusing event, carried important symbolic effect.

Alternatively, factors suggesting the problem be reconsidered in terms of a continental market with solutions of a bilateral nature included:

- indicators such as the analysis by the Bladen Commission recommending market rationalization;

²⁶ Kingdon, 90-4.

²⁷ Kingdon, 112.

- feedback from consumers complaining the about the high cost and limited selection of Canadian automobiles; and
- the Modine challenge as a major focusing event.

The problem definition that would eventually dominate would be the one that was most congruent with prevailing political will as shaped by factors in the politics stream. The policy alternative matched to the problem would be similarly derived from impulses in the politics stream. In the section below we discuss the development of contending solutions within the policy primeval soup of the alternative stream.

Alternative Stream

Alternatives and ideas do not develop within the alternative stream without the important contribution of human agency. The policy community, comprising officials and issue specialists, plays an important role in idea diffusion and persuasion. The way that various proposals are regarded in the alternative stream determines whether or not they will be sent to the politics stream as policy advice. As well, the nature of the relationship between bureaucrats in the policy community and their political masters has an influence over whether bureaucratic proposals will be considered as serious contenders by political decision makers.

At the centre of the automotive trade policy community in Canada was an efficient, merit-based bureaucracy. Bureaucratic autonomy in Canada was an outgrowth of C.D. Howe's war mobilization efforts, which were highly conducive to the

development of internal technical expertise within government.²⁸ Growing bureaucratic expertise was matched by expanded numbers in the post-war era. Promising university graduates were actively recruited for jobs in the federal government in the 1940s and 1950s.²⁹ The public service grew at an impressive rate. In 1943, it was eight times larger than it had been in 1938. By 1963 it would be 13 times larger.³⁰ The expansion and development of human resources in the federal government was funded by the influx of tax dollars captured through Canada's post-war economic expansion. As a result, by the 1960s, the work of the federal bureaucracy touched on more aspects of the social and commercial lives of Canadians than it had at any time in the past.

Despite rapid expansion in the size and capacity of the Canadian bureaucracy, relations between politicians and bureaucrats in the post-war era were relatively harmonious. Simon Reisman, who worked in both the Ministries of Finance and Industry in the 1960s, observed that, for the most part, the relationship between the political and bureaucratic branches of government was fairly "seamless" due to understandings on both sides about their mutual interdependence – bureaucrats required leadership to do their jobs just as ministers required technical advice to do theirs.³¹ Mitchell Sharp, whose career included extensive service as both a bureaucrat and a government minister,

²⁸ C.D. Howe, Canada's "Minister of Everything" was known for rapid expansion and hands-on administration. He became Minister of Transport in 1935, was responsible for munitions and supply during the war, held the reconstruction portfolio after the war, and subsequently became the Minister of Trade and Commerce.

²⁹ J.L. Granatstein, *The Ottawa Men: The Civil Service Mandarins, 1935-1957* (Toronto, University of Toronto Press, 1998).

³⁰ During the pre-war period, the public service represented about 0.1 percent of the population. The post-war public service ranged around 1 percent of the population. Dominion Bureau of Statistics, *Canada Year Book*, 1943, 1950, and 1965 (Ottawa: Supply and Services); and Statistics Canada, *Historical Statistics of Canada* [<http://www.statcan.ca/English/freepub/11-516-XIE/sectiona/sectiona.htm>].

³¹ Interview with Simon Reisman, January 14, 1998.

recalled that Canada's post-war economic policy advisors offered competent advice but also remained sensitive to political realities.³²

The success of the political-bureaucratic relationship depended on the ability of the official to read the minister and anticipate his needs. As Doug Arthur, one of the Industry officials involved in the Auto Pact explains, the expectations of ministers could vary greatly; some were interested in every detail of an issue while others only wanted briefings on the salient facts. It was the job of the official to determine which way the minister was inclined and to offer guidance accordingly. Says Arthur:

You didn't expect them to know what you knew or expect that you could convince them to agree with you. You tried to assess what was needed and let them go from there. The most important thing was to be on the lookout for potential pitfalls and try to steer the minister away from them.³³

When bureaucrats felt that political initiatives were going beyond what could be feasibly implemented, they would attempt to counter political excess with analytic arguments to identify any material shortcomings of the political proposal.³⁴ This form of technocratic counter-move was used after Diefenbaker's seemingly spur-of-the-moment announcement in 1957 that Canada should divert fifteen percent of its import trade to Great Britain. Canadian trade officials acted quickly to produce data projections to show the Prime Minister the economic losses Canada would likely experience through such an initiative and, as a result, Diefenbaker let the matter slip quietly off the agenda.³⁵ Given

³² Mitchell Sharp, "The Role of Economic Advice in Political Decisions," in *Economic Policy Advising in Canada*, David C. Smith, ed. (Montreal, C.D. Howe Institute, 1981), 218-9.

³³ Interview with Doug Arthur, May 16, 2003.

³⁴ Interview with Simon Reisman, January 14, 1998.

³⁵ For more detail on Diefenbaker's proposed Commonwealth trade diversion, see Hart *A Trading Nation* (Vancouver: UBC Press: 2002), 207-208.

that two major changes of government occurred in 1957 and in 1963, many policy bureaucrats became skilled in the art of guiding freshmen ministers through the technical aspects of an issue in a diplomatic fashion.

The central actors in the policy community before and during the Auto Pact negotiations were officials from the Department of Industry. Industry officials had a detailed understanding of the operations of the Canadian auto sector, its dominance by Canadian subsidiaries of US automakers, and its prospects for the future. For decades, government officials had been engaged in ongoing analysis of the auto industry because of that sector's contribution to Canadian GDP and employment. As well, the operation of the various duty remission schemes and the determination of optimal tariff rates required hands-on management by federal bureaucrats. However, input from Gordon's Ministry of Finance also fed the alternative stream, contributing to the nationalist-continentalist tug of war affecting auto policy proposals in the alternative stream.

In general, however, the close working relationship and shared technical understandings of changing market structure and production technology between government and industry contributed to a high level of cohesion within the policy community. Interestingly, by virtue of the Big Three dominance of both the US and the Canadian markets, the North American auto sector represented, in many respects, a cross border policy community with hubs in Detroit and Oshawa. Within this community, the central stakeholders, Chrysler, Ford, and General Motors, could act as a transmission belt to efficiently convey intelligence and recommendations to both the Canadian and the US governments.

The ideas in good currency (policy instruments) in the alternative stream for the Canadian automotive sector were selectively applied tariffs – which attracted US tariff-avoiding investment in Canadian production – together with duty remission incentives for parts not already made in Canada. The government's reliance on these instruments would continue with only minor variations until changes in the politics stream and crises in the problem stream interrupted the trajectory of Canada's national auto sector development.

The tariff had shaped the Canadian auto industry from its very beginnings. Prior to 1926, the Canadian industry was protected from US imports by a 35 percent tariff. As well, preferences among Commonwealth countries allowed Canada to maintain sizeable overseas shipments. Pressure to cut tariffs came from Canadian consumers who were upset by the price differential between the two countries. In 1926, the tariff was reduced to 27 percent with specific duty concessions to offset the cut. A number of automotive parts and accessories “of a class or kind not manufactured in Canada” were designated duty-free when imported as original equipment.³⁶ More importantly, there was a provision for remission or drawback of a percentage of duty paid on certain imported parts if at least 50 percent of the factory cost of producing the finished vehicle was incurred in the British Empire.

These duty remission and local content measures encouraged vigorous growth in the Canadian industry until the Great Depression in the 1930s. The most-favoured nation (MFN) tariff on motor vehicles was cut again in 1936 to 17.5 percent and the duty drawback system was replaced by conditional free entry for parts not made in Canada.³⁷

³⁶Bladen Report, 7.

³⁷Bladen Report, 7. In 1932 motor vehicles from the UK were given duty-free entry to Canada on a non-reciprocal basis; however, the duty on imports from the US remained at the MFN level.

By the 1950s, the basic tariff on cars and on a specified range of parts was bound in the GATT at 17.5 percent. In the meantime, Canadians had become expert in balancing international liberalization objectives with domestic industrial policy. Says Reisman:

Under the GATT we progressively brought the tariff rates down to keep pressures on the industry to learn to produce more efficiently, to reduce the burden on the consumer. All this was accomplished slowly—2.5 percent cuts here, 2.5 percent cuts there—by 1964 we had already negotiated in Geneva, in Annecy, in Torquay and in the Dillon Round.³⁸

Although considerably lower than the tariff that Canada imposed to protect its nascent auto industry, the United States also maintained tariffs of 6.5 percent on passenger cars and 8.5 percent on trucks, thereby discouraging exports from Canada's less efficient plants. The price of Canada's high auto tariff was borne at home by workers and consumers. Canadian workers earned about 30 percent less than their American counterparts and Canadian consumers paid considerably more than US buyers for a narrower selection of vehicles. The additional costs of the Canadian vehicle (up to 50 percent) included excise tax, manufacturers' sales tax, and the extra costs of the less efficient Canadian distribution system.³⁹

Tariffs had nurtured the development of the Canadian auto industry but they had also raised the ire of Canadian consumers. The desire to build a domestic auto industry behind high tariff walls had had the perverse effect of increasing US capital concentration in the sector because US auto makers had replaced exports to Canada with investment in order to achieve the same effect of reaching Canadian buyers with their products. However, industrial tariffs could not be held at elevated levels indefinitely, despite the

³⁸ Interview with Simon Reisman, January 14, 1998.

³⁹ Hart (2002), 343.

impressive record of Canadian trade officials at the GATT who had been able to expand Canada's export opportunities for raw materials and food stuffs with only minimal concessions for imports in secondary industries.⁴⁰

Within the alternative stream, ideas about domestic control over the auto industry were in conflict with ideas about continental rationalization. As Kingdon points out, the criteria for an idea's acceptability in the alternative stream rests largely on practical considerations such as technical feasibility and cost.⁴¹ However, subjective considerations such as whether an idea is compatible with the values of policy community members and whether it is likely to be acceptable at the political level also play a role. Even though the economic case could be made for continental rationalization, its value acceptability to politicians and to the public was more difficult to achieve.

At the practical level, the Bladen Report had recommended limited rationalization of the North American market and more efficient use of the tariff by narrowing Canadian lines of production and increasing exports. Bladen also recommended that Canadian firms prepared to export should be rewarded by letting them count their export sales as part of their domestic production base, thus allowing them to import more parts on a duty-free basis. It was also suggested that finished vehicles imported by Canadian producers should qualify for duty-free entry as long as the minimum Canadian production levels were maintained by producers overall.⁴²

While hardly a recipe for full free trade with the United States, the Bladen recommendations pointed towards a greater level of interdependence between Canadian

⁴⁰ Hart (2002), 248.

⁴¹ Kingdon, 131.

⁴² Bladen Report, 67-71.

and American producers and their respective national commercial policies. And while the recommendations might have made economic sense to the technical specialists in the bureaucracy, they conflicted with the prevailing values of reducing US influence on the economy. Furthermore, as we will discuss shortly, even a cursory reading of the Diefenbaker government's disposition toward the United States indicates that closer relations were not on the Conservative government's radar screen. Consequently, the policy primeval soup of the alternative stream was an unhappy mixture of economic logic competing for space with nationalist concerns about US branch plant expansion with no side clearly dominating the other.

The turning point came when the Modine complaint that threatened the existing program of auto sector support confirmed for members of the policy community that incremental adjustments to boilerplate policies were not sustainable in the long term. New solutions would have to be drawn from the alternative stream and options that might have been dismissed in the past re-examined. In addition to technical feasibility, however, the bilateral dimension of the problem added a new level of complexity to the search for solutions. Reisman describes the situation facing officials charged with finding alternatives for the auto sector:

It was in response to the Modine complaint that the Americans said, 'You're going to lose this one.' And we said, 'We're going to lose this one, but you're going to interfere with a system we have devised to deal with some real problems—we're going to have to find some other ways to protect and you'll like these a good deal less.'⁴³

Among the technical specialists within the policy community, the logic of continental rationalization was well known, but the desirability of such a course

⁴³ Interview with Simon Reisman, January 14, 1998.

of action for Canada and the feasibility of making a deal with Americans were assessments that would have to be made in the politics stream, aided to some extent by coalition building and policy entrepreneurship.

Politics Stream – Conservative Change of Government

In Kingdon's politics stream, decisions take shape through the specification of problem-solution set coupling. Change in this stream may be precipitated by government turnover, or shifts in national mood or the preferences of organized interest groups. Two changes of government are relevant to the policy decision making leading up to the Auto Pact. The first of these was the 1957 election of Conservative John Diefenbaker as Prime Minister followed later by the election of a Liberal government led by Lester Pearson in 1963.⁴⁴

Nationalism and anti-Americanism were fundamental characteristics of the Diefenbaker era. In the immediate post-war period, Canada had enjoyed an economic boom and Canadians had become accustomed to its benefits. As the cycle of economic growth began to even out in the late 1950s, Canadians tried to jump-start the economy by changing gears politically. Voters were lured away from more than two decades of Liberal governance by the Conservative Party in 1957. John Diefenbaker's brand of grassroots populism included promises to re-engage economic ties with Britain combined with substantial doses of anti-American rhetoric.

⁴⁴ The effects of the change from Diefenbaker to Pearson will be discussed in the next section focusing on the countervailing duties crisis.

It is not possible to understand Canada-US commercial policy in the 1960s without also understanding Canada-US diplomatic and foreign relations at the time. In the decade prior to the Auto Pact, relations between Canada and the United States were in a state of flux. Diefenbaker did little to encourage good relations with the United States, often using his anti-Americanism to play on the fears of Canadian voters. Political flashpoints such as the United States' failure to consult with Canada, its NORAD partner, during the Cuban Missile Crisis, together with nagging economic worries over increasing levels of American ownership of Canada's industrial infrastructure and the growing imbalance of payments contributed to Canadian unease over the future of bilateral relations.

Diefenbaker's term in office lasted from 1957 to 1963. According to Granatstein and Hillmer, Diefenbaker's refusal to cooperate with the Americans on Canada's NATO and NORAD commitments to acquire nuclear weapons may well have contributed to his downfall.⁴⁵ The Prime Minister's intransigence did not reflect broader thinking in Canada about the nation's responsibility to continental defence and Pearson, as Leader of the Opposition, launched a successful vote of non-confidence against Diefenbaker in the House of Commons over the issue. However, the subsequent victory for the Liberals with Pearson at the helm was not decisive, resulting in a minority government and, throughout the election campaign, Diefenbaker continued to score points with his anti-Americanism, using rhetoric remarkably similar to that of the Tory campaigns of 1891 and 1911.⁴⁶

⁴⁵ J.L. Granatstein and Norman Hillmer, *For Better or Worse: Canada and the United States to the 1990s* (Toronto: Copp Clark Pitman Ltd., 1991), 206-9.

⁴⁶ John Herd Thompson and Stephen J. Randall, *Canada and the United States: Ambivalent Allies* (Montreal: McGill-Queen's University Press, 1994), 227.

During the Diefenbaker era, the overall wariness in national mood with respect to Canada-US relations manifested itself in economic policy areas, especially in concerns about American foreign direct investment and the spread of US-led branch plants. By the mid 1960s foreign corporations held over 60 percent of the assets of Canadian mining and 58 percent of the assets of manufacturing.⁴⁷ US investment flows had been an engine of Canadian post-war development and the economic, social, and cultural ties were myriad. Nevertheless, there was mounting criticism in Canada both of US ownership and US foreign policy and interventions in Cold War proxy states.

The identification of Canada as a branch plant economy was not new, but what was new, as the 1957 Gordon Report emphasized, was the identification of the negative consequences of branch plants on economic development. Of particular concern were instances where foreign ownership created restrictions on domestic sourcing and export limitations, and the notion that foreign control might hamper the range of activities that would normally be performed by a Canadian firm.⁴⁸ However, despite the gravity of the tone in the Gordon Report, it had limited impact on national mood as measured by demands for government action. Sjolander suggests that one of the reasons for this is because the Canadian worker was reluctant to question a good thing during a period of economic expansion and prosperity. Similarly, from the business perspective, the benefits

⁴⁷ Robert Bothwell, Ian Drummond and John English, *Canada Since 1945: Power, Politics and Provincialism* (Toronto: University of Toronto Press, 1981), 16.

⁴⁸ Thompson and Randall, 229. See also, Glen Williams, *Not for Export: The International Competitiveness of Canadian Manufacturing*, Third Edition (Toronto: McClelland and Stewart, 1994).

of foreign investment to Canadian economic development were too important to risk cutting Canada off from its main source of capital for reasons of economic nationalism.⁴⁹

With government turnover creating a disposition towards nationalism under Diefenbaker and national mood in relative stasis, neither one of these factors would suggest that that a policy window would soon be opening to permit decisive change in auto sector policies. The other factor to consider in the politics stream is the balance of organized interests. Of these, the Big Three represented the most influential set of interests followed by the auto workers.

Because of the dominance of the sector by the Big Three and close working relationship between Big Three management and officials from the Department of Industry in the operation of the remission scheme, the auto sector constituted a small and relatively like-minded policy community. Outside the nucleus of this community, the position of auto workers' unions were not necessarily in lock step with the Big Three but their first priority was to secure and, if possible expand, auto sector employment in Canada.⁵⁰ As long as the major auto makers were also committed to secure Canadian employment, there would be few demands from influential organized interests for change to the *status quo*. Even though an assessment of stream coupling is necessary before a full analysis can be made, this brief review of the politics stream under Diefenbaker does not suggest the existence of any strong pressures for change in auto sector policies to deal with the competitiveness and sustainability of Canada's auto sector beyond the prevailing regime of domestic protection and incentives.

⁴⁹ Claire Turenne Sjolander, *Foreign investment policy-making: the Canadian state in the global economy* (PhD Thesis, Carleton University Department of Political Science, 1989), 237.

⁵⁰ Interview with Doug Arthur, Doug Arthur, May 16, 2003.

Stream Coupling Under Diefenbaker

Declining competitiveness in the post-war auto sector (with clear linkages to structural issues of scale and technology) was of sufficient importance to be recognized as a problem and gain a position on the governmental agenda, but it was not enough of a priority to galvanize any major changes in the direction of government policy. As we know from multiple streams theory, the existence of a problem on its own is not enough to precipitate change. Some issues are recognized as problems and find a place on the governmental agenda but if they cannot be linked to political will, they will never find their way onto the decision agenda where they could be linked to more radical solutions from the alternative stream. In the absence of strong political will, problems will be coupled with off-the-shelf alternatives instead.⁵¹ In the Canadian auto sector, the problem was persistent but it was not linked with any catalyzing force such as a crisis in the problem stream or public demand in the politics stream. Consequently, the Diefenbaker government was free to implement various low-risk policies to ameliorate the problem but the government was never compelled by events generated in other streams to depart far from the *status quo*.

Lack of action in the politics stream can also be attributed to government turnover to the extent that auto sector problem indicators were recognized during the St. Laurent era but the incoming Diefenbaker government exhibited a marked preference for nationalist policies. This position was easy to sustain as long as national mood remained relatively satisfied with current state of affairs. Despite conflicting indicators suggesting

⁵¹ Kingdon, 203.

that US ownership might be a problem for Canada overall, the auto sector was continuing to generate employment and revenues, at least in the short term. As a result, while the Conservative government did not disagree with the analysis of the Bladen Report, it responded to his recommendations by encouraging Canadian firms to increase exports using the existing instruments of commercial policy.⁵² Eventually, in October of 1962, the government also implemented the Nowland Plan for duty remission. This involved re-packaging a previously suspended 25 per cent duty on automatic transmissions with new provisions allowing manufacturers to recover the costs of the tariff and others like it by increasing exports of parts above 1962 base levels.

The incremental nature of these policy decisions show that while indicators, feedback and focusing events in the problem stream led to some level of recognition of auto sector competitiveness as a problem, it was a problem that came without a solution attached or without strong political backing. This represents incomplete or partial stream coupling in Kingdon's terms and helps to explain why the government's initial responses were tentative and did not depart much from prior actions. The re-engineering of incentives programs did encourage more Canadian production but it did so by luring more US production into Canada because scale efficiencies could only be achieved by retaining production and distribution links to the south where the vast number of consumers lived. As such, the incentives programs provided band-aid solutions for competitiveness problems caused by Canada's small domestic market but the program also created a backlash in the US locations where production had been displaced.

⁵² Greg Donaghy, "A Continental Philosophy: Canada, the United States and the Negotiation of the Autopact, 1963-1965," in *International Journal* 53:3 (Summer 1998).

Politics Stream – Liberal Change of Government

Lester B. Pearson's Liberals defeated the Diefenbaker government in 1963 but came to office with a minority government. Pearson was a career diplomat who established amicable relations with John F. Kennedy and the US administration. However, without a parliamentary majority, Pearson's government could not bear the weight of controversy—especially the sort driven by the reactionary nationalism that was Diefenbaker's stock in trade. Pearson's choice of Walter Gordon as Minister of Finance suggests an intent to appease economic nationalists who were suspicious of the new Prime Minister but shared the concerns expressed by the Gordon Report. Despite such gestures, however, Canada's geography and economy still made it imperative to get along with the southern neighbours.

Gordon's nationalism, so solid when he was a Royal Commissioner, began to break down when he was challenged by the demands of governance. As Finance Minister, Gordon authorized a program of incentives to be paid to American firms locating in Canada at the very same time as he publicly condemned the spread of US branch plants.⁵³ Balancing Gordon's nationalism in the Pearson government was Trade Minister Mitchell Sharp, who supported an incremental approach to trade regulation through a combination of multilateral and bilateral negotiations. Of a similarly pragmatic

⁵³ Robert Bothwell, *Canada and the United States: The Politics of Partnership* (Toronto: University of Toronto, 1992), 93.

disposition was Minister of Industry Bud Drury who was well aware of the challenges faced by Canadian industry as the junior partner in a continental market.⁵⁴

The economic policy record of the Pearson government swings widely between nationalist and continentalist orientations. For example, Gordon's 1963 budget included high taxes on American investment but it was all but abandoned within a month of its introduction as a result of strong criticism on both sides of the border. Later, in 1965, the Pearson government implemented a recommendation from a 1961 Royal Commission removing tax-exempt status for advertisements placed in Canadian editions of American magazines. However, at the eleventh hour, the Pearson government waffled and granted exemptions to *Time* and *Reader's Digest* (the two major US publications with Canadian editions) on the basis of their longstanding presence in Canada.⁵⁵

The United States matched Canada's heavy-handed approach to economic independence with similarly protectionist measures, among them was the July 1963 interest equalization tax devised to combat the Americans' balance-of-payments problems. The proposed one-percent surtax would raise the costs of Canadian loans issued to borrowers from the United States thereby causing serious damage to the Canadian financial industry. One month after the release of the Gordon budget, Louis Rasminsky, the Governor of the Bank of Canada, found himself leading a team to

⁵⁴ Assessments of ministers' attitudes about US affairs represent a general consensus derived from interviews with officials active during the period including Simon Reisman, Doug Arthur, O.G. Stoner, and Jake Warren.

⁵⁵ Gordon would later claim that the exemptions were the price exacted by the US for their cooperation in the Auto Pact, although there is little evidence to support this claim. Hart (2002), 339.

Washington to seek a Canadian exemption from the tax, but not before the measure provoked a run on the Canadian dollar.⁵⁶

Officials in both countries recognized the need for bilateral discussions on future economic relations. The Merchant-Heeney Report, produced jointly by diplomats from the United States and Canada, recommended that bilateral disputes should be settled as far as possible through diplomatic channels.⁵⁷ This approach would underpin the negotiated solution that would eventually be achieved through the Auto Pact, helping to avoid a damaging and broad-reaching trade war between Canada and the United States in 1964.

After the election, the change to a Liberal government did not provoke much change in the politics stream as far as auto policy was concerned. The Pearson government continued the trajectory started under Diefenbaker. They expanded the benefits of the Nowland Plan, allowing for full duty remission on imported vehicles when domestic content requirements were met, and renamed it the Drury Plan. This plan allowed a dollar of duty-free imports for every dollar of Canadian production beyond base levels achieved in the previous year. This measure was consistent with the prevailing climate of national mood and demands by organized interests to maintain Canadian sector production and employment. However, the sustainability of continued expansion of remission programs was in question. Hart argues that under the Drury Plan,

⁵⁶ Interview with Simon Reisman, January 14, 1998; Bruce Muirhead, *Against the Odds: The Public Life and Times of Louis Rasminsky* (Toronto: University of Toronto Press, 1999), 210-11. See also A.F.W. Plumptre, *Three Decades of Decision: Canada and the World Monetary System, 1944-75* (Toronto: McClelland and Stewart, 1977), 204-11.

⁵⁷ A.D.P. Heeney and Livingston T. Merchant, *Canada and the United States: Principles of Partnership* (Ottawa: Queen's Printer, 1965).

“Canada had gone about as far as it could go within the parameters of existing trade and production patterns and structures of Canadian and US protection.”⁵⁸

From the multiple streams perspective, it is clear that a change of government alone was not sufficient to precipitate fundamental change in the direction of Canadian auto policy in the early 1960s. What had changed however was government receptivity to new alternatives and problem interpretations – making possible new stream couplings that would not have been conceivable under Diefenbaker. In particular, Pearson’s broader perspective on bilateral relations suggested that cooperation with the Americans might be possible if a sufficiently compelling case could be made to do so.

Since government turnover on its own was not sufficient to provoke change in the auto sector after the Pearson election, we look to other elements of the politics stream for factors consistent with the creation of new problem-solution stream couplings. In terms of organized interests, the large auto makers continued to be the only stakeholders with substantial influence in Canada. Even after the Modine complaint, they remained supportive of the government’s program for developing the national auto industry and its capacity to export. However, with the threat of expanded CVDs, unconditional support for Canadian programs might not continue. Although it was in the interest of the Canadian Big Three subsidiaries to support the Canadian program that had worked so well for them in the past, there was a risk that the continuation of these programs would set the US Big Three against their Canadian subsidiaries in a bilateral trade war. Therefore, given that the firms had concentrated production on both sides of the border, cooperative, bilateral initiatives were the superior choice for the Big Three.

⁵⁸ Hart (2002), 345.

When earlier questioned by Canadian officials working on the 1961 Bladen Report, the US automakers expressed their desire to see an integrated Canada-US market.⁵⁹ Initially the Big Three believed that the Canadian incentives programs were of little consequence to them because almost all auto assembly in Canada took place in wholly-owned US subsidiaries, so their foothold in the Canadian market was secure. On the other hand, small independent US auto parts manufacturers had the most to lose from Canada's remission programs and their dissatisfaction over the Drury Plan threatened to shut down the comfortable niche that the larger producers had carved out for themselves. Industry representatives on both sides of the border were anxious to work out an arrangement that would not only reduce the possibility of disputes but also contribute to the sort of industrial rationalization that would increase efficiency and make production decisions easier. The hoped-for results were minimized border problems, lower automobile prices, and more auto sector jobs.

The effect of national mood on the politics stream is difficult to gauge in the Auto Pact case study. US ownership of the Canadian auto sector stood at 89 percent with the level of capital control in the sector approaching 96 percent.⁶⁰ Nevertheless, national mood on the issue of US influence in general was mixed. "Between 1958 and the mid-1960s, about 50 percent of the population thought that the Canada way of life was being influenced too much by the United States."⁶¹ Similarly ambivalent was a 1956 poll that

⁵⁹ Interview with Doug Arthur, May 16, 2003.

⁶⁰ A. E. Safarian, *Foreign Ownership of Canadian Industry* (Toronto: University of Toronto Press, 1966), 16.

⁶¹ J. Alex Murray and Lawrence LeDuc, "Changing Attitudes Toward Foreign Investment in Canada," in *Host National Attitudes Toward Multinational Corporations*, John Fayerweather, ed. (New York: Praeger, 1982), 217.

suggested that 48 percent of Canadians thought that Canada's reliance on the United States was basically a good thing.⁶² Pushing the public towards greater condemnation of US influence on the Canadian economy were the 1957 Gordon Report which launched a bandwagon, slow moving at first, that captured the imagination of left-leaning members of Canada's media and intellectual community.⁶³

Gordon's assessments as a Royal Commissioner in 1957 continued to hold sway in the years following with respect to the government's obligation to actively oppose foreign ownership:

[T]o do nothing would be to acquiesce in seeing an increasing measure of control of the Canadian economy pass into the hands of non-residents and to run the risk that at some time in the future a disregard for Canadian aspirations will create demands for action of an extreme nature.⁶⁴

However, at a practical level, what mattered most to Canadians was the auto sector's share of jobs and contribution to Canadian GDP. An important consideration with respect to the impact of national mood on government decision making was the fact that the internal workings of the auto industry were largely out of public view and policy discussions were confined to a few stakeholders. The insulated nature of the sector is evident in the recollections of Doug Arthur, one of the Industry officials assigned to assist Vincent Bladen on the Royal Commission report:

He [Bladen] had the idea that the report was something like the *Reader's Digest*, that the people of Canada would read it and rise up and demand that the government do something... I finally said to him, 'Dean Bladen,

⁶² Murray and LeDuc, 217.

⁶³ Among the leading critics were Mel Watkins, Abraham Rotstein, and Peter C. Newman. The defining text of the nationalist economics movement was perhaps Kari Levitt's, *The Silent Surrender: The Multinational Corporation in Canada* (Toronto: Macmillan, 1970). While published in 1970 its writing was contemporary with the development of the Auto Pact.

⁶⁴ Gordon Report, 399.

there are only about a dozen crusty public servants that need to be convinced and no one else's opinion really will hold for very much.' From then on, he and I had a little difficulty getting along because I thought that report was too simplistic... in terms of some of the thoughts and the situation we found at the time.⁶⁵

This quote from Arthur, a member of the policy community of the time, recalls Kingdon's argument that for new ideas to survive in the alternative stream, they must be consistent with the values of the specialists within the policy community.⁶⁶ Given the nature of Arthur's advisory role to Industry Minister Drury, the quote also emphasizes the multiple streams assertion that the actual disposition of national mood is less important than the political assessment of it.⁶⁷ Given the importance of the economic contribution of the auto sector and the lack of public pressure for change, we can infer that the politicians would read the national mood as favouring continuation of full Big Three operation in Canada as long as economic benefits were being derived.

The politicians also had an advantage that hedged against negative swings in national mood. There were only a few key stakeholders involved in the process and this low level of visibility reduced political risk for the government. It also contributed to the likelihood that moving away from the *status quo* to create possible cooperative programs with the United States, would not attract much public criticism either. This, in effect, cleared the way for the operation of a continental auto policy, should one be necessary, that would operate on a track apart from broader, more nationalist policies applied in other parts of the economy.

⁶⁵ Interview with Doug Arthur, May 16, 2003.

⁶⁶ Kingdon, 132-3.

⁶⁷ Kingdon, 148-9. Bureaucratic readings of political dispositions on an issue also contribute to perceptions of national mood.

The Modine Complaint Opens a Policy Window

In April of 1963, the need to reconsider the efficacy of the Drury Plan arose when the Modine complaint prompted the US government to threaten to impose countervailing duties against Canadian-made radiators entering the United States. Consequently, the governmental definition of the problem shifting from longer-term competitiveness (which could remained uncoupled to a policy solution indefinitely) to the more immediate threat of CVDs. At the same time, the magnitude of the problem shifted from moderate to significant. These factors together opened a problem-based policy window and the Canadian government began to give serious consideration to possible responses.

As outlined in the multiple streams-synthetic utility framework in Chapter 3, the process of assessment in the politics stream can be supported by coalition building in the form of bargaining among domestic stake holders as well as through cross-border interventions into the domestic politics stream by actors from other states. Both sorts of coalition building were in evidence in the wake of the Modine complaint as actors sought to influence what problem-solution sets would be considered feasible and desirable by political decision makers.

In the wake of the Modine complaint domestic coalition building encompassed a range of actors including the Big Three Canadian subsidiaries, the Canadian bureaucracy, and the Cabinet. Attempts were also made to influence Canadian decision makers by various US actors. These actors included representatives from both the Big Three and the US government, although the interests and actions of each were different. The following section describes efforts at coalition building (1) within the Canadian government, (2)

between the Canadian government and the Big Three, and (3) between US actors and their counterparts in the Canadian government.

(1) Coalition Building Within the Canadian Government

On the whole, gaining sufficient momentum for change in the politics stream was difficult and the formation of a sufficient coalition of support took a great deal of time. Even after the Modine complaint provided a focusing event demanding government response, the path ahead was not clear. Cabinet remained divided. On the one side was the option of searching for new stop-gap remission policies that would be less vulnerable to trade challenges. However, the government's prolonged preference for re-packaging old solutions rather than developing new ones meant that the most feasible, nationally-oriented policies had been exhausted in the alternative stream. On the other side was the option of developing a radically new approach that would significantly alter the character of bilateral commercial relations. Even if Canada were willing to take a chance on a bilateral agreement, the question that remained was whether the positive forecasts made by economists such as Bladen would actually come to pass or whether such impediments as American consumer rejection of Canadian-made cars and industry non-compliance would hamper the success of a new initiative. Eventually, it would be coalition building in the politics stream that would tip the scales in favour of bilateral cooperation.

Our prior review of the alternative stream suggests that the Canadian bureaucracy was aware of both the economic logic of bilateral market rationalization and the limited sustainability of unilateral policies on autos. However, bureaucrats could not act to develop rationalization plans without political direction. Within Cabinet, the dispositions

of key actors covered a spectrum of interests – from Gordon’s suspicion of the United States to Drury’s pragmatic assessment of industry interests, with Pearson and Sharp remaining open to international cooperation in principle. Among Canadian governmental actors overall, there was recognition of the seriousness of the Modine complaint but no clear will to respond to it, nor any policy entrepreneur willing to invest in the building of a coalition in favour of action.

There was also, to some extent, an element of subterfuge in Canadian stalling in response to US appeals for change to the Canadian auto policy because the longer that Canada could leave the Drury Plan in place, the longer it could extract benefits from the displacement of US production to Canada. However, delays are equally attributable to the lack of clear policy alternatives with which to match to the problem or the political will to find them. As Kingdon notes, a problem, even a pressing one, without a solution attached is less likely to “attain a solid position on the decision agenda” than one that does.⁶⁸

(2) Coalition Building Between the Canadian Government and the Big Three

The American Big Three auto manufacturers had shown a great deal of support for existing Canadian programs, perhaps out of concern that Ottawa might adopt a more restrictive approach if the Drury Plan failed. Chrysler even hired Washington’s most protectionist lobbyist to campaign against US countervailing duties.⁶⁹ This provided the Canadians with an added sense of security in prolonging their existing program. At the

⁶⁸ Kingdon, 142.

⁶⁹ Account by Philip Trezise, US Assistant Secretary of State, provided in Donaghy (1998), 11.

same time, the priority of the Big Three was to avoid a trade war that would see its American head offices having to act against the interests of its Canadian subsidiaries. Another source of support for the Canadian position came from the US wing of the United Auto Workers (UAW). While coming out officially against the Drury Plan, the UAW was not unsympathetic to Canadian interests as a whole. Doug Arthur recalls, “It wasn’t a love-in by any stretch of the imagination but there was certainly support from the American unions for finding ways to keep the Canadian workers employed.”⁷⁰

The coalition-based support provided by the industry and unions did not push the Canadian government toward any particular course of action but the lack of outcry from organized interests meant that immediate action was not required and signalled that Canada was not a *demandeur* in the bilateral process. It was afforded the luxury of time in order to find adequate domestic political support and alternative stream proposals before taking action.

(3) Coalition Building Between US Actors and the Canadian Government

Appeals by the United States for cooperation in the auto sector were not a new phenomenon brought in by the Modine complaint. US officials had long been attempting to plant the seeds of support for cooperative programs within the Canadian politics stream. US political actors reminded their Canadian colleagues that the auto industry was a North American one and not one that could be manipulated by Canadian

⁷⁰ Interview with Doug Arthur, May 16, 2003.

unilateralism.⁷¹ At the same time, the Americans attempted to appear sympathetic to Canada's desire to develop its secondary industry and improve its balance of payments position. One of the early, informal proposals made by the Americas was that joint positive measures be worked out including the mutual reduction of trade barriers in anticipation of the upcoming GATT negotiations scheduled to begin in 1964.⁷²

The Canadians did not respond to this overture except to fortify their existing system of automotive protection with the Drury Plan. Next, the US Congress found itself under pressure from its own protectionist forces to take action against Canadian lumber exports. The United States believed it was exercising restraint and discretion in Canada's favour by not doing so. Rather than expressing gratitude to the United States, however, Gordon announced an expansion of the Drury Plan.⁷³

A policy entrepreneur who did emerge during this period was US Undersecretary of State George Ball. He worked on a number of fronts persuade the Canadians to enter negotiations for some form of joint auto program and was not shy about expressing his belief in a commercial manifest destiny that would eliminate economic barriers between Canada and the United States. Ball predicted that "[s]ooner or later, commercial imperatives will bring about free movement of all goods back and forth across our long border."⁷⁴ In a speech in April of 1964, Ball noted that despite common interests in defence, culture, and economics, there was a great deal of room for further economic

⁷¹ United States *Aide-Memoire*, 24 October 1963, DEA File 37-7-1-USA-2, DFAIT.

⁷² United States *Aide-Memoire*, 24 October 1963, DEA File 37-7-1-USA-2, DFAIT.

⁷³ Canada, House of Commons, *Debates*, 25 October, 1963, p. 3999.

⁷⁴ George Ball, *The Discipline of Power: Essentials of a Modern World Structure* (New York: 1968), 11.

cooperation to develop benefits from North American-scale production.⁷⁵ He claimed that it was incongruous to have a common border over which people and capital moved easily yet goods moved only at MFN levels.⁷⁶

Through joint cooperation Ball envisioned the creation of a single North American market. Anticipating the Canadian nationalist backlash such a proposal would encounter, Ball argued that he saw no logical connection between increased economic interdependence and decreased political independence. He warned that economic nationalism would become increasingly costly, rising to “prohibitive levels as the pressures for realizing the benefits of scale are intensified by economic progress throughout the world.”⁷⁷

Throughout the autumn of 1963, Ball tried to convince Gordon that Ottawa and Washington could meet Canada’s need for more secondary industry, not through nationalistic policies, but through an agreement that followed “a philosophical framework ... for working out specific issues in a manner somewhat different from other countries.”⁷⁸ At Ball’s request, Harvard economist Raymond Vernon produced a substantial review of bilateral economic relations for the US government.⁷⁹ Vernon recommended maximizing the gains of interdependence and the proximity of the two economies. Having been warned of the possibility of a heated bilateral clash over

⁷⁵ “Interdependence: The Basis of U.S.-Canada Relations.” Speech by Under Secretary of State George W. Ball, Harriman, New York, April 26, 1964 (Simon Reisman Papers).

⁷⁶ The fact that Canada’s Commonwealth tariff preference was better than that given to the US was not missed in Ball’s speech.

⁷⁷ Ball speech, April 26, 1964.

⁷⁸ Washington to Ottawa, Tel No 2916, 12 September 1963; and Washington to Ottawa, Tel No 2895, 12 September 1963, DEA File 50312-8-40, NAC.

⁷⁹ Donaghy (1998), 7.

automotive trade, Ball saw an auto agreement as a test case for the larger objectives recommended by Vernon.⁸⁰

The effects of government turnover on alternative-politics stream coupling were not limited to Canada during this period. Political tragedy in the United States intervened to permit Canada more leeway in its automotive protection plan. The November 1963 assassination of President Kennedy dampened US confrontation on trade issues. Even after President Johnson took over in the White House, Canada benefited from an extra measure of deference on autos because Johnson's foreign policy behaviour was still untested. Consequently, his advisors were reluctant to provoke an argument with Canada during the early days of his presidency.⁸¹ Ball, in an archetypal act of policy entrepreneurship, convinced the White House that a quarrel with Canada would complicate the bilateral relationship and possibly hurt Pearson, who the Americans saw as relatively sympathetic, perhaps hastening the return of Diefenbaker as Prime Minister.⁸²

In January of 1964, Johnson approached Pearson about the establishment of an intergovernmental committee to explore continental rationalization of the North American auto industry. However, as the Canadian Cabinet had just reaffirmed the government's decision to extend the remission program, Pearson rejected the suggested

⁸⁰ Washington to Ottawa, Tel No 2570, 12 August 1963, Department of External Affairs (DEA) File 50312-8-40, NAC.

⁸¹ Donaghy (1998), 9.

⁸² George Ball to McGeorge Bundy and attached Memorandum for the President, 7 January 1964, RG 59, Box 1247, United States National Archives (USNA).

committee.⁸³ Undaunted, Ball continued to warn of problems that countervailing duties would cause and urged Canada to suspend its auto program and commit to a bilateral working group examining the auto industry on a continental basis.

In response, Secretary of State for External Affairs, Paul Martin Sr., tried to put off the Americans, claiming that such consultation was possible but required further discussion with Industry Minister Drury.⁸⁴ Ball then appealed directly to the Prime Minister, but Pearson would not be pulled into the issue. Martin subsequently intervened more firmly in defence of the Canadian program, helping to entrench the belief among fellow members of Cabinet that the existing program was the only one that would achieve the desired results.

American concerns about Canadian protectionism did not stop at the auto industry. In March of 1964 a US interagency group was formed that included officials from the State Department, Department of Commerce and the Treasury Department to discuss concerns that Canada's automotive plan might spill over into other industries despite Canadian assurances to the contrary. This is consistent with the argument presented in multiple streams theory that once a decision passes through a policy window in one area, a precedent for similar types of change tends to spill over into other areas.⁸⁵ Officials from the departments charged with defending US economic interests were determined that the auto parts incentive plan not endure as an example of Canadian

⁸³ *Mike: The Memoirs of the Right Honourable Lester B. Pearson, Volume 3*, edited by John Munro and Alex Inglis (Toronto: University of Toronto Press, 1972), 124-5.

⁸⁴ It is worth noting that Martin's riding included Windsor, Ontario, an area with a strong interest in maintaining the *status quo* for the auto industry.

⁸⁵ Kingdon, 192.

unilateralism.⁸⁶ At the same time, officials from State continued to express concern about the effects of retaliation on the political relationship.

The increasing protests by American firms who were experiencing negative impacts from the shift of US production to Canada created pressures on the US government to demand action from Canada. However, the overriding foreign policy concerns of State, combined with Ball's personal disposition on bilateral issues held the United States to a more or less conciliatory position. At the recommendation of White House foreign policy advisors, US officials continued to work through diplomatic channels to settle the growing dispute over the auto sector. American officials began to suggest specific amendments to the Canadian program in an effort to encourage Canada to negotiate some joint solution.

At the international level, key US officials redoubled their efforts at coalition building with their Canadian counterparts. Ball appealed to any Canadian who was thought to wield political clout. The Canadians were reminded of the favour owed to the US administration for Johnson's veto of Congress's attempt to restrict Canadian lumber imports.⁸⁷ Cabinet documents suggest that the seriousness of the problem facing the Canadians, in concert perhaps with appeals by the US was having some effect in the politics stream. By the end of April 1964, most members of the Canadian Cabinet had accepted that the Drury Plan would not be sustainable and moved to endorse talks with the United States on alternative programs. However, the coalition was incomplete and

⁸⁶ Washington to Ottawa, Tel No 902, 9 March 1964, DEA File 37-7-1-USA-2, DFAIT.

⁸⁷ H.B. Robinson, Memorandum for File, 2 February 1964, DEA File 20-Cda-9-Pearson, NAC.

action was impeded as long as Walter Gordon held out on the issue.⁸⁸ Gordon's default position was that no American proposal would be possible without a significant degree of market integration, and that greater integration would not be healthy for the Canadian economy.⁸⁹

Treasury Secretary Dillon suggested that the formation of a bilateral study group on the issue would help to establish a dialogue and might persuade Modine to withdraw the complaint or at least delay further action.⁹⁰ Ball and his officials in the State Department were more ambitious, offering various proposals for a negotiated solution to the bilateral auto trade issue to their Canadian counterparts. Assistant Secretary of State Philip Trezise outlined the broad strokes of a bilateral settlement proposal to the Canadians on May 14, 1964. Among the most important provisions was that Canadian-made parts shipped to the United States for use in larger components would count as part of a Canadian-content requirement necessary for duty-free entry.⁹¹ Although the proposal seemed generally equitable and reflected the Canadian objective of achieving a larger share of North American production, the Canadians' response to the proposal was cool. Time and consideration would be required before the required diffusion of the idea took place in the alternative stream. Ed Ritchie from External Affairs suggested by letter that Trezise's proposal could be revisited in the summer during consultations for the Kennedy

⁸⁸ Cabinet Conclusions, 27 April 1964, RG 2, Vol 6264, NAC.

⁸⁹ Summary Record of the Joint US-Canada Committee on Trade and Economic Affairs, 29-30 April 1964, DEA File 35-4-5-1-1964, DFAIT.

⁹⁰ Summary Record of the Joint US-Canada Committee on Trade and Economic Affairs, 29-30 April 1964, DEA File 35-4-5-1-1964, DFAIT.

⁹¹ Donaghy (2002), 46, and Phil Trezise to Ed Ritchie, Washington to Ottawa, Tel No 1607, 4 May 1964, DEA File 37-7-USA-2, DFAIT.

Round. So as not to completely shut down US good will, Canada also implied the possibility of a concession on the defence production sharing issue and a willingness to explore the problem of replacement parts sometime in the future.⁹²

By late May, the State Department finally lost patience with Canada's stalling and summoned Canadian embassy officials to a meeting for a dose of American political reality.⁹³ The Americans underscored the seriousness of a positive Treasury Department finding to their counterparts. A ruling against the Canadian system of automotive protectionism would cause considerable political pressure on the United States government to take action against Canada. In doing so, the US government would find itself in the unwelcome situation of publicly opposing a major plank of Canadian economic policy. This would produce an unpleasant bilateral dispute and public acrimony that might escalate to provoke Canadian retaliation and an "inevitable counter reaction in Washington."⁹⁴

The Americans argued that while the White House had a great deal of good will toward Canada, and did not want to impose countervailing duties because of the precedent it would set for protectionist forces domestically, it could not continue to ignore Congressional pressure indefinitely. The administration had no choice but to let the Modine petition proceed. Official notice of the investigation was to be published the following week. The Canadians were shocked when State officials revealed that the

⁹² Ed Ritchie to Phil Trezise, 14 May 1964, DEA File 37-7-1-USA-2, DFAIT.

⁹³ Donaghy (1998), 14.

⁹⁴ Washington to Ottawa, Telegram No 2027, June 5, 1964, RG 19, Vol 3947, File 9705-08-16, NAC.

Treasury inquiry would include not only the radiators of concern to Modine but all Canadian automotive exports to the United States.⁹⁵

Canadian officials were not certain of the full implications of an industry-wide inquiry. At worst, it could amount to CVDs being applied to a large number of Canadian exports. In any event, they recognized that they had run out the clock on the Drury Plan.⁹⁶ Those familiar with the auto industry and the recommendations of the 1960 Bladen Report knew that some form of limited rationalization of the North American automobile market made good economic sense. This was confirmed by an internal Cabinet report prepared by an *ad hoc* committee headed by Simon Reisman. It advised that broader negotiations with the United States should be undertaken in order to guarantee Canada a specified share of the market and recommended that any eventual agreement should include tariff cuts by both countries on autos and parts.⁹⁷

Finally, in early June 1964, Gordon capitulated. His reasons for giving in appear to be related to the coalition building dynamics described by multiple streams where some actors join an issue bandwagon not in pursuit of gains but rather to avoid the costs of shut-out – both personally within Cabinet and for the nation within the continental auto market. Gordon admitted that the US investigation, regardless of findings, would cripple the Canadian program: investment in Canadian plant capacity would grind to a halt, and new orders would be delayed.⁹⁸ Gordon also seemed to have second thoughts about his early brashness towards the United States. In a Cabinet memorandum, Gordon admitted:

⁹⁵ Washington to Ottawa, Tel No 1929, 28 May 1964, DEA File 37-7-1-USA-2, DFAIT.

⁹⁶ B.G. Barrow to O.G. Stoner, 29 May 1964, DEA File 37-7-1-USA-2, DFAIT.

⁹⁷ Record of Cabinet Decision, 11 June, 1964, Department of Finance Records, Vol. 3496, File 8705-01, NAC.

⁹⁸ Donaghy (2002), 47.

“Having proceeded with this show of strength, [the US officials] probably feel they have us at a disadvantage. And this is true.”⁹⁹ As Finance Minister, Gordon finally accepted the inevitable. Although continental rationalization of the auto industry ran counter to his personal beliefs about economic independence for Canada, an industry already dominated by three US companies had little to contribute to the nationalist cause. Removing the national boundary between the industries disturbed Gordon but it would be tolerated as long as the pattern was not adopted in other sectors.¹⁰⁰ On June 11, 1964, Cabinet accepted that an agreement with the Americans should be pursued on a serious basis.

Analyzing the Results of the Problem Shift and Subsequent Stream Coupling

The threatened expansion of countervailing duties from a single sector to potentially all Canadian auto exports served as a strong focusing event sparking diffusion of the bilateral plan in the alternative stream and accelerated stream coupling. In bargaining terms, the expansion significantly altered the utility of the Canadian no-agreement alternative. When the stakes were relatively low, Canadians could afford to delay, but when the United States raised the stakes to all auto exports, failure to find an alternative solution carried a much greater potential cost. Greater insight into how this change was first resisted and then accepted is provided through the following synthetic utility interpretation.

⁹⁹ W.L. Gordon, Memorandum for File: Automobile Policy, 1 June 1964, RG 19, Vol 3947, File 8705-08-16, NAC. Also, DEA File 37-7-1-USA-2, DFAIT.

¹⁰⁰ Stephen Azzi, *Walter Gordon and the Rise of Canadian Nationalism* (Montreal: McGill-Queen's University Press, 1999), 125.

When the problem was confined to losses in radiator exports only, the issue of a binational agreement found a place on the governmental agenda but not necessarily the decision agenda.¹⁰¹ In its early discussions with the United States, Canada was oriented towards a competitive bargaining stance (The coupling of problem and politics stream did not dispose them to do otherwise because they were not compelled to depart from the *status quo*). Attempts to build a coalition of support for a substantial change to the national auto program had not taken hold within Cabinet. Organized interests in the form of Big Three support for the retention of the Drury Plan also diminished the likelihood of change, as did political readings of national mood.

On the US side, the leadership of policy entrepreneur Ball disposed the US toward a more cooperative stance vis-à-vis the Canadians because the larger vision of economic union was important to Ball. Other considerations that might be inferred as affecting US perception of no-agreement alternative were the spillover effects of failure onto broader bilateral relations and the Big Three's simultaneous support for the Canadian position and its leverage in Congress.

With the US in a cooperative bargaining position and the Canadians in a competitive strategy, facing a problem on which they felt they could safely stall, the results of attempts at coalition building to support a new auto program were predictable according to the bargaining dynamics of the synthetic utility model:

- The US suggests joint solutions through the GATT; Canada delays.
- The US spares Canada from import restrictions on lumber; Canada does not offer any reciprocal good will gesture.

¹⁰¹ We will return to this point in more detail later in this chapter.

- The US lays out a proposal for a joint auto agreement; Canada sidesteps consideration of the proposal through administrative delays.
- The US expands the range of products that will be subject to duties and, in so doing, changes the stakes for Canada and the Canadian perception of the no-agreement alternative; Canada becomes more cooperative and agrees to serious consideration of a binational auto agreement.

Throughout the period leading up to the June decision to pursue bilateral talks, Canada had presented two faces on the issue. Within Cabinet, pragmatists clashed with nationalists to define the problem and solution according to their conflicting worldviews. Externally, by contrast, Canada maintained the appearance of confidence despite diminishing policy options. Although admitting that duty remission would have to be abandoned, Reisman had also warned the United States that they could face alternatives that would damage Big Three interests. This position could be interpreted as one of many instances where the aggressive negotiator blustered his way through difficulty. A more strategic explanation, however, is that Canada was anticipating future bilateral negotiations and was attempting to situate itself in a position of strength from the outset by attempting to diminish US perceptions of the utility of their own non-agreement alternative.

A review of the attempts at cross-border coalition building in the Canadian politics stream prior to Auto Pact negotiations shows Ball and his officials using a range of persuasive tactics in the exercise of coalition building in the Canadian political stream. However, in the early stages, there was simply no case that could be made that was strong enough to compel the Government of Canada to depart from its incremental path through

a range of domestic incentives. When the benefits of national policies still outweighed the costs for Canada, attempts at bargaining to form a coalition for a continental agreement were largely unproductive. At the same time, the relative balance of interests within Cabinet and between the government and stakeholders kept the *status quo* in place. This is why US attempts at conciliatory gestures such as suggestions for mutual reduction of barriers in the upcoming GATT round and shielding Canada from lumber CVDs, were largely ignored or countered by increases to the Canadian system of auto sector protection.

The Modine complaint awakened the government to the need for action but it was only when the stakes were raised through the expansion of potential CVDs to all Canadian automotive exports that the Canadians recalculated their interests and considered boarding the US bandwagon headed toward a bilateral agreement.

Results of the Process / Stream Coupling

Activities in the politics stream were essential to allow for a reconsideration of problem-solution coupling. The change of government from Conservative to Liberal was a contributing factor but not a deciding one since the Liberal position vis-à-vis the United States was not that much different from the Conservative position until intervening events forced them to change. Nevertheless, while Diefenbaker's anti-US position was entrenched, Pearson embodied a more pragmatic leadership style that was more responsive to changed circumstances or national mood. This is not to imply that the government would be easily moved. This was evident in Pearson's initial rejection of American appeals to develop a joint auto strategy. It was only when the Modine

complaint significantly recast the nature of the problem – from how to sustain a protectionist policy to how to ensure the survival of the sector – that the calculation of the magnitude of the problem within the problem stream changed.

With the Modine complaint serving as a focusing event in the problem stream, the Pearson government had to come to terms with the fact that an alternative built around a continental auto sector would institutionalize American influence over Canadian production decisions but, practically speaking, the industry was 99 percent American-owned anyway. At the time, Pearson seemed to believe that it was possible to further both the interests of economic development and political autonomy through the enlightened cooperation of the United States:

To do so, we need to receive the kind of special treatment that we have enjoyed in Washington, while making clear to our American friends that this is not a matter of grace and favour but something to which we [were] entitled by the nature of our trade and financial relations with them, and from which both countries can benefit.¹⁰²

The US Treasury Secretary notified Gordon of the complaint and its likely outcome, including expansion to other automotive exports. In order to circumvent a trade crisis, Prime Minister Pearson and President Johnson agreed to attempt to minimize the spillover from the Modine complaint by developing a cooperative plan that would stem the potential flow of complaints from other parts makers. Although some in the US Treasury and Commerce Departments thought that the Canadians were finally getting what they deserved with the Modine complaint, the opportunity to reverse the trend of

¹⁰² Munro and Inglis, 128.

rising Canadian protectionism brought even the most reluctant American officials to the table.

During the summer and fall of 1964, negotiating teams set about to create an agreement that would facilitate, within certain limits, free bilateral trade in automotive products between Canada and the United States. Leading the negotiations for Canada was Simon Reisman, Deputy Minister of the Department of Industry. The head of the US delegation was State Department official Philip Trezise.

The decision to negotiate with the Americans was supported by key changes in each of the streams and resulting stream coupling. In the problem stream, the Modine complaint focused government attention to the problem. In the alternative stream, the complaint elicited broad recognition that national incentives programs would not stand up to trade challenges, more innovative options for market rationalization would have to be developed. The interval between the Modine complaint and the Treasury notification provided time for idea diffusion in the alternative stream, including the production of the Reisman Report assessing the technical viability of a bilateral auto program. In any event, before a new alternative could be coupled to the current problem, the go-ahead would have to be granted from the politics stream. There, change in government, both in Canada and the United States, support by key organized interests, and effective bargaining which combined cooperative inducements with credible threats, brought about the required change in the politics stream.

In Chapter 2 we referred to Kingdon's distinction between the governmental agenda – the lists of subjects to which governmental officials are paying serious attention but which can be set solely in either problem or politics streams – and the government's

decision agenda, which is “the list of subjects that is moving into position for an authoritative decision.”¹⁰³ The latter is driven by the problem, policy proposal, and political receptivity being linked in a single package. It was argued earlier in this analysis that partial couplings are less likely to rise on decision agendas and “proposals that lack political backing are less likely to move into position for a decision than ones that do have that backing.”

The prolonged period after the government recognized a problem but continued to respond with stop-gap measures until countervailing duties were threatened provides a good illustration of the differences between the two agendas. The initial problems of competitiveness that were articulated by the Bladen Commission were sufficient to get the problems onto the governmental agenda but not enough to prompt radical change on the decision agenda that would disrupt the *status quo*. The time would not be ripe for radical change until the required coupling of the problem and politics stream. It was necessary for a crisis to emerge in the problem stream and for the government to be disposed to recognize it and respond with new alternatives that had not previously been considered viable in the alternative stream.

Conclusion

The Canadian decision to negotiate with the Americans represents the beginning of a policy development process, not its end. It also represents the opening of a policy window through which a mandate to negotiate passed. However, at this stage, the

¹⁰³ Kingdon, 203.

objectives of the agreement and the strategies that will be used to attain it are in a very underdeveloped form. These will be defined and refined as the dual processes of bilateral bargaining and domestic streams assessment unfold. As Druckman reminds us, “[W]hat is acceptable is a function of what is possible and what is possible can only be determined as the negotiation unfolds.”¹⁰⁴ Chapter 5 continues this discussion.

¹⁰⁴ Druckman (1986), 329.

Chapter 5

The Auto Pact Negotiations

Introduction

The multiple streams analysis in Chapter 4 describes how, prior to the Modine complaint, Canadian decision makers tended to frame auto sector problems and policy solutions in nationalist terms that could be organized and controlled within domestic borders. This set the stage for the implementation of a series of palliative measures that temporarily relieved competitiveness problems in the auto sector but could not be sustained in the long term because of the vulnerability of exports to countervailing duties. After the Modine complaint, the magnitude of the problem forced the government's attention to the shortcomings of prior policies and to consider an expanded range of feasible solutions from the alternative stream, including a bilateral agreement with the United States.

A tentative coalition of support in favour of a continental initiative took shape in the domestic politics stream, aided by intensive interventions and policy entrepreneurship by the Americans. After an extended period of coalition building, preceded by the political recognition of the imminent countervailing duty (CVD) problem and an exhaustion of other options in the alternative stream, Prime Minister Pearson directed his officials to seek an agreement with the United States. Despite his assent, however, support for the initiative was not on firm footing in the Canadian politics stream.

In this chapter we will look at how progress was made through successive stages

of bilateral negotiations. As the model in Chapter 3 described, bilateral bargaining and domestic streams processes are intrinsically linked. We observed in Chapter 4 how domestic streams processes set the stage for bilateral bargaining. We also saw attempts made at bargaining within the Canadian domestic politics stream as American actors tried to interest Canadian politicians in a deal but, until an expansion of the Modine CVD threat prompted political reassessment of the cost of no-agreement, these attempts were in vain.

In addition to bargaining activities at the bilateral level, in this chapter we will also look at how the results of bilateral bargaining fed back into domestic streams when negotiators required domestic input on the conduct of their external negotiations, particularly when a substantive impasse was revealed at the bilateral level. Throughout the process, turning points can be identified as a measure of progress (or lack thereof) and signal the transition between external bargaining and domestic multiple streams as the shifting focus of activity for policy development.

Mandate

The Canadian decision to negotiate with the Americans was the product of a particular configuration of problem-solution stream coupling. This configuration provided general form to the mandate that the Canadian negotiators took with them to negotiate with the Americans. In the early stages of bargaining, the parameters of that mandate were lacking detail and were understood by negotiating officials in very general terms. Going into preliminary talks with the Americans, the Canadians' sense of what the final agreement

should include was based primarily on their existing knowledge of the auto sector and the operation of the previous program.¹

This level of mandate flexibility was not unusual for the Canadian trade negotiators at the time. It is important to remember that the previous century had been marked by a series of failed attempts at free trade between Canada and the United States, and there was little precedent for the sort of trade liberalization and market sharing agreement that the two sets of negotiators were trying to create. As well, Canadian trade negotiators were accustomed to considerable autonomy in negotiating the various rounds of GATT talks that had taken place between 1947 and 1964. Simon Reisman recalls of this period that, "Often when you went off to trade negotiations, the Minister would tell you simply 'God speed and do a good job for Canada.' This left a fair degree of flexibility for the sort of deal you could make with the other fellow."²

The Canadians approached the Auto Pact negotiating table with a relatively open-ended mandate to work with the Americans to achieve a new form of continental cooperation in automobile production and trade. The lack of specificity in the mandate regarding permissible terms of discussion and the scope of agreement provided bureaucrats with greater room to manoeuvre during the negotiations, but it also meant that the negotiated terms would be vulnerable to criticism at home in the politics stream by politicians and organized interests because various individuals and groups would hold differing opinions about how to measure bargaining success.

¹ Interview with Simon Reisman, May 18, 2002.

² Interview with Simon Reisman, May 18, 2002. This level of mandate flexibility or scope contrasts with the narrower range of negotiated settlements available in the CUFTA case study.

Strategy

As set out in the model in Chapter 3, negotiating strategies are derived from the negotiators' perception of the subjective utility of the no-agreement alternative. For the Canadians approaching the United States in the Auto Pact negotiations, the no-agreement alternative to a negotiated settlement was poor. The *status quo* was no longer an option because maintaining the Drury Plan of domestic supports and duty remission would guarantee the imposition of US countervailing duties on all of Canada's automotive exports. If no agreement could be achieved, Canada stood the risk of losing some of the country's largest employers.

In Chapter 4, this thesis described how the perception of the auto industry in the Canadian politics stream had changed from a view of a sector that could be engineered by domestic policy to enhance output and employment, to a sector under threat of trade retaliation by competing parts producers within its largest market. Given the high level of uncertainty created by the US Treasury Department actions, we can draw some inferences about the Canadian win set³ at this point. The reservation outcome represents the least attractive agreement that would still be acceptable to Cabinet or any slight improvement over no agreement at all. In this case, the reservation outcome would be a settlement that hinged on two conditions: it must provide Canada with some level of guaranteed share of the North American market and reduce its vulnerability to CVDs. At the other end of Canada's win set, a maximum outcome could be imagined as some form

³ In Chapter 2 we defined a national win set as the set of all potentially negotiated outcomes that would likely be acceptable to national constituents.

of optimal arrangement that brought higher returns than had been achievable through the Drury Plan and was not vulnerable to US trade challenges.

The perceived utility of the NAA not only affects the placement of the reservation outcome, it also influences the type of strategy negotiators will choose. The poor perceived utility of Canada's NAA meant that a bilateral agreement had become a priority. According to the terms of the synthetic utility model, a poor NAA predisposed the Canadians to more cooperative bargaining strategies. Among the range of cooperative behaviours predicted by the analytical framework in Chapter 3 are cooperative responses to offers and attempts to explore jointly all the possible ways that both parties could benefit from the negotiated settlement. As we will see below, however, these theoretical predictions were not in line with Canada's actual behaviour at the negotiating table.

PRELIMINARY ROUNDS

The Canadian team was made up of Jake Warren and Robert Latimer from the Department of Trade and Commerce; Jim Grandy from the Department of Finance; Ed Ritchie and Allan Gotlieb from the Department of External Affairs; and Bert Barrow and Doug Arthur from the Department of Industry. Simon Reisman, the Deputy Minister of Industry at the time, was in the lead. They faced a US delegation headed by the State Department's Phil Trezise, assisted by his departmental colleagues Robert McNeal and Julius Katz, together with various advisors from the Departments of Treasury and Commerce and the Office of the Special Trade Representative.

Prior to the first formal meeting of the national negotiating teams, Phil Trezise and William Brubeck, the head of Canadian Affairs at the White House, met with staff at the Canadian embassy. Trezise and Brubeck set out a number of strategies to “pick up the pieces” of the former Canadian automotive strategy.⁴ Their suggestions ranged from a relatively tame series of bilateral initiatives aimed at joint tariff reductions on automobiles and parts on an MFN basis, to the much more radical notion of an automotive customs union between Canada and the United States. Upon hearing that the Americans had proposed a customs union, Reisman’s first response was that the plan was “pretty bold and unrealistic” unless such an agreement included “carefully worded conditions and guarantees regarding Canadian output.”⁵ Reisman recalls:

I think the original position the Americans took was ‘Let’s just have free trade in automobile parts. There will be no question of countervailing duties or special privileges to earn.’ I suppose that was attractive from an American point of view. Come hell or high water their industry would be okay. If it should be that we import everything and export nothing it would be no skin off their backsides.⁶

Canadian wariness aside, the tariff reduction proposal seemed relatively simple to execute. The plan had a side benefit from the US perspective because tariff reductions would help the Americans hit the ground running in the upcoming Kennedy Round of GATT negotiations. However, these negotiations were still quite far off; the Brubeck-Trezise meeting took place in June of 1964 but the GATT talks were not scheduled to begin until mid-November at the earliest. Therefore, to add further pressure to the slow-moving Canadians, the Americans suggested that the Drury Plan should be suspended

⁴ Washington to Ottawa, Telegram No 2027, June 5, 1964, RG 19, Vol 3947, File 9705-08-16, NAC.

⁵ Reisman’s marginalia, Telegram No 2027.

⁶ Interview with Simon Reisman, January 14, 1998.

immediately until such time as a solution could be worked out. The Canadians rejected the idea as an unacceptable precondition for talks and the proposal was dropped.⁷

Although the Modine complaint had brought the Canadians to the table, there were concerns that the October 1, 1964 deadline for a Treasury Department decision would create pressures that would destabilize the negotiations. The suggestion that Canada was negotiating to a deadline, and therefore under duress, was not acceptable to the Canadian government. In response, strong assurances were given by the Americans that there was no desire on their part to use the threat of countervailing duties as bargaining leverage in the negotiations. The Canadians were advised that Treasury Secretary Douglas Dillon could personally delay any action for up to three months. Trezise assured the Canadians that the mere fact that talks were taking place would strengthen the hand of the administration to resist political pressures and that there was “good deal of [presidential] discretion available if the talks were progressing satisfactorily.”⁸

While maintaining the outward appearance of disinterest, by June of 1964, the Canadians had also been giving close internal consideration to a qualified variant of the customs union plan, which would likely encompass an entirely new program to encourage domestic automotive manufacturers to capture a larger share of the Canadian market.⁹ The only way to achieve the desired production levels for Canada seemed to be a rationalization of the North American market that did *not* involve duty remissions and

⁷ Telegram No 2027.

⁸ Telegram No 2027.

⁹ Simon Reisman, Memorandum for the Cabinet Committee on Finance and Economic Policy, 9 June 1964, RG 19, Vol 3947, File 8705-08-16, NAC. The initial approach set out by the Canadian team is detailed in Donaghy (1998), 48.

thus would not attract countervailing duties. However, ending duty remissions without compensatory measures would mean increased costs to Canadian consumers who would have to contend with more expensive auto parts. This could be offset by tariff reductions for US imports, but again the object of encouraging Canadian production would be frustrated by tariff cuts alone. A further complication of reducing tariffs on American-made parts was that existing tariff levels were bound under the GATT and could only be decreased on a Most-Favoured Nation basis unless a waiver was granted by GATT Contracting Parties.¹⁰

In order to deal with these various challenges, a preliminary Canadian proposal for a managed trade agreement was developed in the alternative stream. In order to reduce tariff barriers and increase Canadian production levels, the prospective agreement would include the following:

- The United States would agree not to oppose Canadian attempts to secure certain minimum levels of production of automobiles and parts in Canada.
- The minimum level would be defined as that share of the North American market that was produced in Canada, plus that production for export that Canada could reasonably have expected under the existing program, plus an appropriate share of the growth of the markets.
- To achieve these minimum levels, the United States would have to agree to allow Canada to use the threat of import controls (quantitative restrictions) to ensure

¹⁰ The challenges that the Auto Pact posed to existing GATT regulations and how these were overcome is described in Dmitry Anastakis, "The Advent of an International Trade Agreement," *International Journal* 55:4 (Fall 2000), 538-602.

that the automotive industry would produce a given share of their total output in Canada.

- The United States would also cut its existing tariffs on automobiles and parts by 50 percent during the Kennedy Round of GATT.
- Canada would dismantle the automotive parts incentive program, reduce tariffs on cars and parts, and re-examine the existing Canadian content provisions.¹¹

During the early meetings, both sides attempted to set the agenda for the future talks. The Americans had already swept away two of the initial conditions that had troubled the Canadians: time limitations for the negotiations and the suspension of the Drury Plan. Nevertheless, the Americans seemed confident that having succeeded in bringing the Canadians to the table, the United States could use this momentum to take control of the negotiating agenda. However, after years of crafting automotive support programs, the Canadian officials were intimately familiar with the operation of the North American industry and its prospects for future development. Having finally been given the go-ahead by their political masters to negotiate, the Canadian officials were not inclined to hand over control of the process to the Americans.

A preliminary meeting for officials from both countries was held in early July of 1964. Although Cabinet had authorized the negotiators to try to reach an agreement, the Canadian officials were determined that it was not to be a deal dictated by the United States. The Canadians began the meeting by setting out their proposal for a managed trade program.

¹¹ Memorandum for the Cabinet Committee on Finance and Economic Policy, 9 June 1964.

The boldness of this overture suggested that Canada intended to take an aggressive stance in the negotiations that ran counter to Canada's relatively small economic size. The terms proposed by Canada would influence the course not only of US bilateral auto policy but its multilateral policy as well. Doug Arthur recalls that there was some surprise on the part of the Americans that having been finally pulled to the negotiating table, the Canadians were not shy about making demands. He describes the meeting:

At the official level, we had a great deal of difficulty with our American counterparts. At our first meeting in the summer of 1964 we laid out some tentative idea of how the auto problem might be overcome. Even though the Americans appreciated how serious the implications of the Modine case could be, they didn't seem to want to bother with the details. Our first meeting was supposed to last two days but it broke up in the first morning. However, there was agreement on both sides that the Americans would stay for the lunch we had laid out for them.¹²

Despite the premature conclusion of the meeting, this could hardly be classified as a negotiating impasse in the theoretical terms set out by the turning points model. The meeting had been intended for both sides to get to know the approach and intentions of the other and the Canadians had simply bolted from the gate faster than the Americans had anticipated. As important as the preliminary rounds were in establishing what would later be discussed was their contribution to creating perceptions of relative bargaining strength: Canada had set the tone for competitive negotiations with the United States and served notice that it expected very favourable terms. At the conclusion of the Ottawa meeting in July, both sides returned to their political masters to report on progress.

¹² Interview with Doug Arthur, May 16, 2003.

Bargaining Analysis

To the extent that Druckman's turning points are catalysts toward (or away from) settlement, the Canadian decision to negotiate after years of resistance was itself a substantive turning point toward settlement. As predicted in the multiple streams-synthetic utility model, multiple streams processes led to a decision passing through an open policy window in an attempt to solve a problem through bilateral negotiations that could not be satisfactorily resolved through domestic actions alone. Further, as predicted in the model, policy windows and turning points are identifiable as points of intersection between the domestic multiple streams and bilateral bargaining levels of analysis. Decisions generated through multiple streams establish or revise negotiating mandates and perceptions that hold dominance in the politics stream about the costs and benefits of negotiated settlement influence the location of the no-agreement alternative, thereby affecting negotiating strategy as well.

The first turning point toward settlement was the initial decision to negotiate. However, given Canada's poor alternatives to a negotiated settlement, the Canadians should have been disposed to a cooperative bargaining strategy. Instead, the Canadians took a more aggressive stance, making demands for particular conditions within a comprehensive settlement package.

Why the departure from predictable bargaining strategies that would be more rational given the level of importance of the auto sector for Canada? The decision to take a more forceful approach may be attributed to various factors. It may be that Reisman, a negotiator known for his bellicosity, had decided that the best defence was a strong

offence and chose to operate from a position of perceived strength that belied reality in order to be credible in demands for concessions from the United States.

Another explanation, however, may be drawn from bargaining theory. Lax and Sebenius argue that it is possible to maintain a competitive strategy if a negotiator can commit “credibly and irreversibly to a preferred settlement.”¹³ Attempting to persuade the other side to concede to a set of fixed conditions means that if a settlement is reached at all, it must include these conditions. However, the competitive ‘all-or-nothing’ bargainer also runs the risk that the other side will walk away from the talks rather than yield to these specific conditions. In Canada’s case, the concern about structural impediments to the successful realization of Auto Pact objectives, including questions of Big Three compliance and US consumer willingness to purchase cars assembled in Canada, led Canada to insist on the conditions of guaranteed market share and protection from trade retaliation if Canadian objectives were not being met.

Lax and Sebenius argue that commitment to credible conditions can set the stage for a more competitive bargaining strategy despite a party’s poor NAA. How does this correlate with the opposite assertion made in the synthetic utility model that parties with poor NAAs tend to bargain cooperatively? On the one hand, we know that the economic importance of the auto sector and lack of other viable options in the alternative stream left Canada with a poor NAA and therefore established conditions where cooperative bargaining would be likely. On the other hand, the risks involved in participating in a new and untested venture such as a bilateral market integration pact for the automotive industry meant that no agreement at all might be worse than a poor agreement. Any

¹³ Lax and Sebenius (1986), 124.

agreement would involve considerable investment from Canada in the form of industry restructuring and the abandonment of existing programs. Without concomitant guarantees in key areas, the agreement could fail to meet Canada's needs *and* result in the forfeiture of the investment to restructure the national market along continental lines.

From an analytical perspective, it is logical to conclude that when no agreement is preferable to an agreement lacking essential conditions (in this case, to guarantee market share), then the relatively better utility of no-agreement disposes the negotiator to more competitive bargaining tactics. Therefore, it is possible (and theoretically consistent) for parties with a poor NAA to bargain competitively to achieve certain conditions if an agreement absent these conditions could be worse than no agreement at all.

Although the desire to avoid both poor and worse future outcomes conditioned Canadian bargaining competitiveness on the basis of subjective NAA assessment, Canadian bargaining confidence might also have been bolstered by a history of Big Three support for Canadian positions. They had lobbied Washington on behalf of Canada's Drury Plan and it was reasonable to assume that they would exert similar coalition-building efforts with the US administration in support of future Canadian positions. The Canadian objective was, after all, how to keep the Big Three operating competitively in Canada. The interesting effect of Big Three interests on the negotiating positions of both sides is illustrated graphically in Figure 4 below.

FIGURE 4: CANADA-US JOINT WIN SET

The Canadians were not entirely in control of all bargaining advantages, however. Time pressure resulting from expected imposition of CVDs meant that Canada had only a limited period in which to come up with a deal until the economic effects of the trade dispute hit home and sparked public demands for government action. Despite American assurances that Treasury could delay the imposition of CVDs for up to three months if productive negotiations were ongoing, the Canadians realized that the deadline could not be pushed back indefinitely and that the prerogative rested with the United States to judge whether or not negotiations were productive. Furthermore, if negotiations continued into the autumn, they might be derailed by the opening of the Kennedy Round in November.

Domestic Streams

Overall, despite a few false starts caused by mismatched expectations about the nature and scope of the agreement, the preliminary discussions finished with both sides able to put a positive spin on the results as they returned home to brief their political decision

makers. At this early stage, no bilateral bargaining impasses of any significance had emerged to require mandate or strategic reassessment in the domestic streams. With more information being derived through ongoing analysis in the alternative stream at home, and from the US during the bilateral process, the Canadian negotiators were better able to develop and refine their mandate. At the outset, their political masters instructed them only on *what* they had to do. As the process unfolded and various options were explored, the negotiators could better understand *how* to fulfill their mandate and what resources were at their disposal to do so.

The mandate of Reisman and his team was to find a mutually equitable solution to a problem jointly acknowledged by Canada and the United States. If an arrangement based on rationalization and increased two-way trade was not possible, Canada promised to revert to some variation of its former inward-looking policies to give Canadian producers a larger share of the domestic market. In practical terms, however, this was a hollow threat. There was no need to offer duty remission, for example, if one could no longer effectively export to the US without being met by countervailing duties. Without a negotiated settlement, Canada's market access to the United States would be cut off and the auto industry, if it survived in Canada at all, would be serving purely domestic demand.

While Canada had taken a defiant stance with the United States ever since the problems with the auto program came to light, the reading in the politics stream was that assertiveness should be tempered with reason. Few members of Cabinet believed that ultimatums were the best option for dealing with the Americans. Trade Minister Sharp, himself a supporter of free trade and the development of Canadian secondary industry,

was concerned that an all-or-nothing approach would torpedo the negotiations. As well, Industry Minister Drury was acutely aware of the precarious position faced by the auto industry in Canada without radical restructuring.¹⁴ While these considerations did not fundamentally alter the competitive strategy employed by Reisman's team, they did ensure that a full range of negotiated solutions be investigated by Canadian officials and sent back to Cabinet for consideration as contenders for future problem-alternative stream coupling.¹⁵

With no major changes required in mandate or strategy, it was not necessary to look to domestic streams for new sources of decision-making vis-à-vis the bilateral negotiations. The continuing problem was how to maintain and enhance market share. The selected alternative was a bilateral agreement that offered a guaranteed share of production and was less vulnerable to trade challenges. The will in the Canadian politics stream, though tenuous, was still in place as the Canadians and Americans met to embark on their first formal round of talks.

ROUND ONE

During formal bilateral discussions in July and August of 1964, the two sides were able to find common ground at the level of principle if not detail. The US delegation readily accepted the importance of the Canadian automotive sector's survival to the Pearson government. They admitted that Washington was willing to consider new arrangements

¹⁴ Interview with Doug Arthur, May 16, 2003.

¹⁵ Cabinet Conclusions, 11 June 1964, RG 2 Vol 6265, NAC.

to meet Canadian objectives, even if under such new arrangements Canada should receive a more than proportional share of new investment.¹⁶

Canada stipulated that it was willing to accept a new form of industry rationalization that did not include duty remissions provided that it did not result in higher consumer costs. The United States responded with what they considered to be generous offers of tariff cuts. Under the American Trade Expansion Act, authorization existed to cut tariffs by 50 percent, and the Administration was prepared to ask Congress for authority to make further cuts to satisfy Canadian objectives. Although the Canadians were interested in the proposed cuts, they responded that tariff reductions alone were not the final answer because there was nothing to compel industry to increase production in Canada. Auto makers could choose to focus their attentions elsewhere in spite of the incentives created by low tariffs. The Americans seemed to accept this explanation and Reisman expanded the discussions to tariff reductions plus various production commitments that the United States would have to agree to.

After considerable discussion, the two sides agreed on four basic provisions:

1. The two countries would reduce tariffs;
2. The United States would explicitly accept the Canadian objectives of expanded production and market share and inform the industry in both countries of this understanding;
3. The agreement would contain provisions for bilateral consultation to ensure that measurable progress was being made toward Canadian production objectives; and

¹⁶ Memorandum of Conversation: Possible Free Trade Arrangement in Automotive Products, 7 July 1965; and Ottawa to the State Department, Tel No. 6148, 8 July 1964, RG 59, Box 1249, File IT 7-12-CAN, USNA and Memorandum to the Cabinet Committee on Finance and Economic Policy, 10 July 1964, RG 19, Vol 3946, File 8705-02, NAC.

4. The United States would acknowledge Canada's right to restrict automotive imports if, within a reasonable time, the Canadian industry had not grown at a satisfactory rate.

Implied in this settlement proposal was that some form of consent would have to be sought from the major automobile manufacturers in order to meet production targets, but the terms of their inclusion remained undefined early on. Of all the provisions on the table, the fourth was the boldest since it imposed performance requirements on US producers with Canadian operations. It also proved to be the most problematic. Canada's prospective use of quantitative restrictions on American imports would violate existing GATT commitments and such action would normally trigger a counter-reaction by the United States. In order to allow this condition to stand, the United States would have to voluntarily waive Congressional rights to retaliation in the auto sector. Adding teeth to their position, the Canadian negotiators had made it clear that support for the Kennedy Round of tariff negotiations would inevitably be affected by the United States' attitude toward the objectives of Canadian automotive policy.¹⁷

In all, the exchange of offers and responses continued in a fairly cooperative manner and what emerged at the end of Round One were the broad strokes of a preliminary agreement that was decidedly favourable to Canadian interests. The question that remained was whether the framework agreement could withstand the scrutiny of both

¹⁷ J.F. Grandy, Memorandum for the Cabinet, 11 June, 1964, RG 19, Volume 3947, File 8705-08-16, NAC. With the Trade Expansion Act of 1962, President Kennedy had made strengthened, liberalized trade a centrepiece of US economic and foreign policy as it provided an important instrument for strengthening ties with other nations during a period of bipolar tension. See also Michael Hart, *Fifty Years of Canadian Tradecraft* (Ottawa: Centre for Trade Policy and Law, 1998), 85.

sets of home governments and survive future rounds of formal deliberation over specific details. Both sides left the negotiations in order to consult with their political masters and domestic automotive industries about the proposal on the table. They agreed to reconvene in mid-August.¹⁸

Bargaining Analysis

The first formal bilateral negotiating session saw the ambitious scope of discussions that had been presented in the preliminary rounds concentrated into a few substantive proposals. The United States first made a tariffs-only offer; Canada countered with the demand that the agreement should include tariff reductions and production commitments. The US agreed to this approach in principle and worked out a preliminary arrangement that would tie the Big Three to specific production commitments through mechanisms not yet defined. These commitments also required that Congress waive its right to retaliation against Canadian quantitative restrictions on US auto imports during the life of the agreement so that Canada could restrict imports if the any of the automakers failed to meet their commitments. An assessment of the Round One exchange shows a pattern of Canada taking control of the terms of the prospective settlement and the US conceding to Canadian demands.

For their part, the Canadians continued to be successful with the competitive strategy they had adopted at the outset. The US had the threat of impending CVDs and control over negotiating deadlines as bargaining resources potentially affecting Canadian

¹⁸ Memorandum to the Cabinet Committee on Finance and Economic Policy, 10 July 1964, RG 19, Vol 3946, File 8705-02, NAC.

perceptions of NAA and strategy. However, these elements were not sufficient to move Canada to a more cooperative position. The Canadian team continued to hold out on issues of importance to them, judging that a competitive strategy would yield the results they desired. Based on the outcome of the first round, this assessment appears to have been the correct one.

According to the predictions of the synthetic utility model, US bargaining strategy would have been influenced by considerations of potential losses (or missed opportunities) if no agreement could be made with the Canadians. These included the Canadian threat that reversion to a more protectionist regime that would disadvantage the Big Three; and the linkage of progress on an auto agreement to Canadian support for broader US objectives in the Kennedy Round. We can infer that these considerations would have contributed to the US perception of their no-agreement alternative as poor and disposed them to continue cooperative bargaining.

Another element likely affecting US perceptions at the bargaining table is easier to explain in terms of multiple stream dynamics than through bargaining theory alone. As a policy entrepreneur, US Undersecretary of State George Ball worked to build and sustain his US political colleagues' belief in the auto agreement's importance – interpreted in multiple streams terms as coalition building in the US domestic politics stream. Not only did he provide ongoing reminders of the importance of the prospective agreement with the Canadians, Ball also advocated a continued cooperative strategy in dealing with Canada in order to prevent negative policy spill over from the auto dispute to other areas of bilateral concern.

The internal debate within the United States was largely played out between the more confrontational Treasury Department, which was concerned about the effect of the Canadian auto program on US producers, and the more conciliatory State Department, which was focused on bilateral relations as a whole and had the policy entrepreneur Ball at the helm managing the issue. The US choice of strategy – to cooperate or compete with the Canadians – was influenced by which department had control of the issue. In the early stages, State Department interests trumped those of other agencies. Therefore, as long as Ball and State controlled decision making, the United States would be more prone to cooperate with Canada on an agreement. However, if the prerogative shifted to Commerce or Treasury, Canada would find itself in difficult straits with more competitive, risk-prone adversaries.

Domestic Streams

Following Round One, the Canadian negotiating team returned to Canada with the fundamental elements of an agreement in hand, ready for assessment by key decision makers in the politics stream. The team was dismayed by the ambivalent response of the Cabinet Committee on Finance and Economic Policy to the apparent breakthrough with the Americans.¹⁹ As though failure was a foregone conclusion, the committee sidelined consideration of the newly returned bilateral framework agreement and turned its attention to developing strategic responses if the negotiations failed. Rather than looking at ways to fine tune the proposal on the table, the discussions in the politics stream seemed to have returned to square one as Cabinet debated the merits of continental versus

¹⁹ Russ McKinney to O.G. Stoner, 26 July 1964, DEA File 37-7-1-USA-2, DFAIT.

national policy options. Gordon continually brought the nationalist card back into play, asking Cabinet to recognize that:

if a solution . . . designed to achieve greater efficiency on a continental basis proved unacceptable to the United States, an alternative approach would have to involve measures to reserve a larger share of the Canadian market for the Canadian industry.²⁰

A minority in Cabinet argued that it was premature to follow Gordon's predictions about negotiation failure and tried to restore focus to the progress being made bilaterally. Consensus finally emerged around the latter view and Cabinet remained committed to a continental solution, at least for the time being.²¹ However, the tone of this meeting was unsettling for the Canadian negotiators. The underlying message seemed to be that they could win the battle with the Americans and develop an innovative joint policy solution at the bilateral table, but lose the war in the domestic politics stream if Cabinet rejected the results of their efforts.

This interim domestic conflict brings to light the differences in priorities and understandings that exist between the alternative and politics streams. Streams dynamics shaped the negotiators' mandates but the desired form of the final agreement remained undefined because of the unprecedented nature of the bilateral agreement and the lack of ready models available in the alternative stream for negotiators to follow.

The negotiators who met bilaterally were drawn from technically astute policy communities working in the alternative stream. They had a great deal of experience with the operation of the auto sector and cross border auto trade. Therefore, there was more

²⁰ Memorandum for Cabinet, 12 August 1964, RG 19, Vol 3946, File 8705-02, NAC.

²¹ Cabinet Conclusions, 13 August 1964, RG 2, Vol 6265, NAC.

certainty within the alternative stream about what technical elements might be feasible than there was in the politics stream about the desirability of such an agreement – especially given the fact that the Pearson Cabinet was made up of relatively inexperienced ministers in a minority government. As a result, the progress of the negotiators throughout the process consistently outpaced the rate of Canadian political acceptance. This lesson was made plain to negotiators when they returned to Canada with the elements of a framework agreement in hand only to see it nearly rejected by Cabinet, not because of its content but because of ambivalence within the Cabinet about the wisdom of the initial decision to negotiate. If the agreement had been rejected, it would have required a new search for alternatives in order to produce a new configuration of politics-alternative stream coupling. As it was, the original coupling held, but barely.

Similar frictions between alternative and politics stream were evident when US negotiators returned home to report on Round One progress and reviewed the implications of the conditions that had been included in the provisional agreement. If the issue of Congress's right to retaliate against Canadian import restrictions could not be resolved, either through joint problem-solving or by forcing Canada to capitulate on the issue, the agreement might have to be abandoned because Canada would not accept tariff cuts alone. Ironically, domestic resistance was not the result of ambivalence in the politics stream – as had been the case in Canada – but a failure of actors in the alternative stream to anticipate the political acceptability of a proposed alternative – one of Kingdon's central criteria for an idea's survival. A new alternative was needed that would offer essential guarantees for Canadian production but would not restrict Congress.

The seeds of a new solution had been planted when the idea of formally incorporating industry into the agreement had been floated as a possibility in the Round One bilateral talks. If industry were somehow formally obliged to meet the Canadian targets there would be no need for Canada to resort to unilateral trade restrictions that would be vulnerable to US retaliation because Canada would have some means to directly influence the actions of industry. However, this proposal remained undeveloped at a practical level in the alternative stream as the negotiators headed into Round Two.

SECOND ROUND OF NEGOTIATIONS

On August 17, 1964, the Canadians arrived in Washington for the second round of negotiations armed with a fairly detailed rationalization plan. However, just as the Canadians were preparing to move forward, the US announced that it would have to backtrack. Trezise and McNeal admitted to Reisman that the administration anticipated having to bow to Congressional pressure in an election year and therefore would not be able to support the approach sketched out in the July meeting. Congress would not agree, in advance, to waive its right to retaliate if Canada had to resort to import restrictions to achieve its desired market share.²²

The Americans put the issue of industry participation back on the table for serious consideration. They argued that if the auto makers supported Canada's objectives, there was little need to create a government mechanism to force compliance upon them. A

²² Donaghy (2002), 51.

sufficient agreement could be pulled together from the negotiated elimination of tariffs, together with a general statement of the program's objectives, and a consultative mechanism to be used if those objectives were not realized. However, the Canadians were not easily convinced. Reisman argued that:

... Even if a lot of good Canadians came forward, and even if the American Big Three were willing to experiment with assembling in Canada and shipping over the border and marketing and doing all the things that you'd expect would arise under free trade, there were still these horrible institutional barriers.

If you look at the structure of, for example, the General Motors purchasing division, they're accustomed to getting their parts from people they know and can rely on. So what's the incentive to do business with some little guy from Canada, who is wet behind the ears and wants to come in and sell them some stuff? They'd invite him in, give him a cup of coffee, a hearty handshake and tell him to come back next year when he's bigger. We regarded that as the general tone. Not that they were necessarily hostile, protectionist or even nationalistic in the sense that they wanted to exclude somebody, but that's the way they'd been doing things and they had confidence in it. Why would they change unless they had to?²³

The US team also suggested the inclusion of an escape clause to allow either government to terminate the agreement after an initial period if the objectives were not realized.

The Canadians were wary about the institutional barriers Reisman described above. These could substantially impede the successful operation of the agreement and so the Canadians sought as much certainty as possible. Their response was that the American proposal would not be acceptable without a quantified definition of the Canadian share of the North American market. Furthermore, an escape clause was of little value to Canada because it would have already taken a very large gamble by committing to the program. After a certain point, the process of integration would be

²³ Interview with Simon Reisman, January 14, 1998.

impossible to reverse without incurring enormous political and economic costs. Since the Canadians could not, for practical purposes, undo the agreement after investment was made in infrastructure and assurances made to workers, they were strictly opposed to providing the Americans with any mechanism to undo it either.

The meetings ended – partly because of divisions over how to proceed without a Congressional waiver but mostly because more data was required if time lines and desired levels of Canadian market share were to be set out in quantitative terms.²⁴ Although reluctant, the Canadians had not taken the notion of formal industry participation off the table. A faint hope remained that a new solution could be found that would satisfy both parties at a technical level and be politically acceptable as well.²⁵

Domestic Streams

Between rounds, the two national alternative streams overlapped somewhat when representatives of the Canadian and US policy communities met informally to grapple with the practicalities of industry inclusion. Informal discussions were held between Reisman and Francis Linville, the Counsellor for Economic Affairs at the US embassy, about the practicalities of a tri-partite agreement.²⁶ An arrangement with industry meant that Canadian market share objectives could be met and US concerns about limiting

²⁴ M. Cadieux, Memorandum for the Minister, 24 August 1964, DEA File 37-7-1-USA-2, DFAIT. R de C. Grey to R.B. Bryce, 19 August 1964 and R. de C. Grey, Memorandum for the Minister, 24 August 1964, RG 19, Vol 3946, File 9705-02, NAC.

²⁵ R.J. McKinney, Memorandum for the Under-Secretary of State for External Affairs, 28 August 1964, DEA File 37-7-1-USA-2, DFAIT.

²⁶ Donaghy (1998), 104-6.

Congressional retaliation would be satisfied because responsibility for enforcement would be in the hands of industry itself. Reisman and Linville discussed how auto manufacturers might voluntarily undertake to expand their production in Canada in exchange for a reduction in duties.²⁷ The most important concern for the Canadians, however, was whether the auto makers would take their commitments seriously, and how they might be bound in a contractual arrangement that included mandatory levels of investment and penalties for non-compliance.

The Americans also had some initial reservations about Canada negotiating any sort of special arrangement directly with the US auto makers.²⁸ However, it became clear that such an arrangement would be preferable to blocking Congress's right to retaliate if Canada began restricting imports. Upon learning of the Reisman-Linville discussion in Washington, Trezise encouraged Ed Ritchie at the Canadian embassy to use his influence to invite the representatives from the automotive industry to join the talks.²⁹

Through the informal discussions between members of the policy communities of both states, the idea of industry inclusion gained credibility (an example of idea diffusion and refinement in the alternative stream). By early September, the Canadian officials had begun to develop new proposals to overcome the objections that the US delegation had raised in early August. Three options were ready for consideration by decision makers within the Canadian politics stream by mid-month. The most feasible solution from a practical perspective was a bilateral agreement that included the auto makers as formal

²⁷ Ottawa to State Department, Tel No 306, 4 September 1964; and Ottawa to State Department, Airgram A-539, 21 January 1965, RG 59, Box 1248, File IT 7-12-CAN, USNA.

²⁸ Interview with Doug Arthur, May 16, 2003.

²⁹ Washington to Ottawa, Tel No 3209, 8 September 1964, DEA File 37-7-1-USA-2, DFAIT.

signatories to parallel agreements with Canada. The full set of accords, including the bilateral agreement with the United States would reflect the desire by both governments for Canada to achieve a more equitable share of the North American auto industry and provide the practical means to do so.

Leading Canada's market share demands was the goal of achieving 260 million dollars worth of new production annually by 1968. To meet this objective, Canada would first obtain precise commitments from the motor vehicle producers about the steps they would take to realize their share of new production and exports during the next three-year period. If the commitments from the industry matched the Canadian production objectives, then Canada would reduce or eliminate tariffs on vehicles and original parts. If the industry should fail to meet its commitments, the Canadian government would terminate the agreement and adopt other (most likely protectionist) policies to meet its objectives. In order to protect Canada's inefficient parts manufacturers, only *bona fide* Canadian motor vehicle manufacturers would be eligible to import parts and vehicles duty free.³⁰

Two other options were drafted along nationalist lines because it was still not clear to Canadian officials how the politics and alternative streams would eventually couple - whether Gordon would endorse a policy that committed Canada to closer economic integration with the United States and required the Big Three to act as guarantors of the agreement's success or whether a safer plan that could be kept under national control would emerge as the preferred alternative. The second proposal involved

³⁰ Memorandum for the Cabinet, 19 September 1964, RG 19, Vol 3946, File 8705-02, NAC. The criteria to determine whether a manufacturer qualified for the program is set out in the agreement.

an amended version of the existing duty remission plan. Remission would be granted to Canadian vehicle and parts manufacturers who adopted programs intended to achieve “greater rationalization, improved efficiency and expanded investment in production in Canada.”³¹ It was hoped that such a scheme would not be the target of US countervailing duties because it built upon the US acknowledgement of Canada’s goal of expanded market share and an increase in exports was only one of the elements of the scheme. However, given its similarity to prior programs, the chances of avoiding future CVDs were slim.

The third alternative involved various measures to adjust the tariff and Canadian content regulations in order to reserve a larger proportion of the domestic market for Canadian auto makers. Its central feature was a new excise tax on luxury cars that would be sufficiently high to discourage the sale of imported luxury cars in Canada. Consumers would, in effect, be forced to buy small- and medium-sized domestic cars, thus encouraging economies of scale in these areas. Not only would this plan irritate domestic consumers and US manufacturers, it failed to provide a predictable level of new production, and would not reduce the trade deficit.³² As Reisman recalls, the nationalist alternatives were not seen as very practical within the Canadian policy community:

We laid out our options for the Americans: ‘We could simply develop a Canadian car [which would involve] withdrawing the concessions in our GATT agreement that allow for your excessive [US] penetration. We’ll break the existing agreement if we have to. We are not going to lose the Canadian auto industry and we are willing to give whatever level of protection is required to get the action in Canada.’

³¹ Memorandum for the Cabinet, 19 September 1964.

³² Memorandum for the Cabinet, 19 September 1964.

Well, there was a certain amount of bluster in that because it would have led us into a situation where the cost to Canada of producing a car, the price to the consumer, would begin to approach the sort of high levels found in Australia. You'd have to pay twice the cost for a car or you'd be looking at nationalistic action like developing a Canadian car where there'd be prohibitions on importing anything else. You'd say to consumers, 'Okay, here's what you're going to take. You can buy any car you want as long as it is black, has four wheels and is made in Canada. Well, maybe you can do that in certain parts of the world, but if you tried to do that in Canada, politically you'd be in for a lot of trouble.'³³

Methods for moving past the Round Two impasse could be worked out in the alternative stream but they had to be sanctioned in the politics stream. This is the situation described by the multiple streams-synthetic utility framework where the negotiators' original mandate must be re-evaluated in the politics stream in light of new issues or new circumstances. In the domestic streams, political decision makers reconsider bargaining objectives and/or strategies. If a new mandate is required, a policy window opens and the coupled streams that pass through it will provide new instructions to negotiators based on any new stream content or configurations of stream coupling that have become dominant since the previous mandate was decided upon.

The main problem that negotiators took away from the bilateral table was how to satisfy Canadian production demands and Congress at the same time. While political judgement would be required for the final decision, the search for new options took place in the alternative stream. Members of the Canadian policy community, in consultation with their cross-border counterparts, discussed the technical feasibility of industry participation and the likelihood that the firms could be counted on to live up to their commitments. From a practical standpoint, the addition of industry the negotiations

³³ Interview with Simon Reisman, January 14, 1998.

would mean that the Canadians would have to finish the deal at a number of bargaining tables. An accord with the United States would not be enough. To ensure satisfactory operation of the auto program, Canada also needed separate agreements with the auto makers as well.

Within the alternative stream, members of the policy community fleshed out various proposals for political consideration. A policy window was open demanding a decision shaped by politics-alternative stream coupling. There were a few options available:

- The original stream coupling could be maintained and the negotiators would be forced to return to the table without approval to include industry. The Canadians would then have to try to force the US to waive its right to retaliate against quantitative restrictions. This option would likely fail.
- A new coupling would see Canadian negotiators return to the table with the alternative of a return to duty remissions but also renewed commitment to industry rationalization. In effect this was a re-packaging of the prior program that was being challenged by the Modine complaint. This option lacked the potential to substantially improve conditions for either side.
- A second new coupling would be to raise tariffs against American imports back up to protectionist levels, and attempt to re-furbish a Canadian national auto industry with minimal imports or investment from the US. This option would hurt the Big Three by effectively removing most of their Canadian market share. Of greater concern to the Pearson government, however, would be the resulting protests by Canadian consumers over the limited and expensive range of cars

available for sale in the home market. As such, this option would have strong, negative effects in the politics stream.

- A third new coupling involved releasing the United States from the demand for a Congressional waiver by putting the onus for meeting production targets on the industry through a set of parallel accords between the Government of Canada and the auto makers. This option would achieve the Canadian goal of increased market share and eliminate the need to curtail Congressional action.

In retrospect, it seems that the final option was the most practical for both sides and would be seen as the clear preference in the Canadian politics stream. However, while the politicians grudgingly accepted the necessity of entering negotiations, they were not buying into the process happily. There was a practical element to Cabinet reluctance as well. A unilateral policy was easier to enforce than a bilateral agreement and a bilateral agreement relying on industry self-regulation carried even more risk. Under these circumstances, recommendations about options from policy bureaucrats were not sufficient to bring Cabinet to a consensus. Leadership by the Prime Minister, influenced perhaps by cross-border policy entrepreneurship from key American political actors, would be required before stream coupling would take place and a decision made.

In mid-September, two sets of political dynamics were at work: American politicians were making threats and Canadian politicians were stalling. A focusing event that served to return the Canadian Cabinet's attention to the problem, however, was a memo signed by US Commerce Secretary Hodges in mid-September recommending to

the President that CVDs against Canada would take effect on November 1, 1964.³⁴

Within the United States, Hodges (Commerce), Dillon (Treasury) and President Johnson had all expressed impatience with Canada and were moving toward more hard-line solutions. Secretary of Commerce Luther Hodges held the Canadians responsible for the collapse of the second round of auto talks, blaming them for unreasonably seeking assurances to “make a free trade scheme practically riskless for them.”³⁵ Hodges urged Secretary of State Dean Rusk to get tough on countervailing duties against Canada. At Treasury, Douglas Dillon also agreed that it was time to stop pandering to the Canadians. While those responsible for US economic policy were ready to take swift action against Canada, those US officials whose primary concerns were related to foreign policy remained conciliatory. George Ball from State was able to form a limited but effective coalition with McGeorge Bundy, the National Security Advisor, to assist him in steering other members of the administration away from hasty actions against Canada.³⁶

Throughout the autumn of 1964, the US administration was keenly aware that the American public could not be kept waiting indefinitely on word about pending actions against Canada stemming from the Modine complaint.³⁷ The increased pressure was felt by bureaucrats attempting to outrun the CVDs while also devising a feasible proposal in the alternative stream. The Canadian officials developed a framework to persuade the auto sector to voluntarily expand Canadian production in exchange for a reduction of

³⁴ Luther Hodges to Douglas Dillon, 17 September, 1964, RG 59, Box 1249, File IT 7-12-CAN, USNA.

³⁵ Luther Hodges to Dean Rusk, 25 August 1964, RG 59, Box 1249, File IT 7-12-CAN, USNA.

³⁶ Donaghy (1998), 26.

³⁷ Anastakis (2001), 200.

duties. To their relief, Canadian officials received much greater support from industry for a bilateral plan than they had received previously from their own government.³⁸

A positive verdict in the alternative stream represented a tipping point in idea acceptance. In the politics stream, this set the bandwagon rolling for further coalition formation and renewed commitment among decision makers. The decision to return to the table for a third round of formal negotiations represented a change of composition in the three streams and new stream coupling. In the alternative stream, the engagement of other actors – US officials and industry representatives – helped to work out the feasibility of a new tripartite alternative. Stream coupling was affected by renewed Canadian attention to the problem in the politics stream through the US threat of imminent CVDs and the emergence of a practical solution in the alternative stream. The urgency of the problem helped to bolster political will and the tripartite solution gave politicians a reasonable alternative to attach to the problem.

Cross-border coalition building also played a role in generating momentum in the Canadian politics stream. Interventions were made by Dean Rusk to persuade Paul Martin Sr. that Canada should renew its efforts toward an agreement. Similar discussions were held between Johnson and Pearson during Johnson's visit to British Columbia. During September meetings of both the Cabinet Committee on Finance and Economic Policy and the full Cabinet, it was finally agreed that the only way to get over the present stalemate was an agreement that included Canada, the United States and the auto industry.³⁹

³⁸ Interview with Simon Reisman, May 18, 2002.

³⁹ Cabinet Conclusions, 17 September, 1964, RG 2, Vol. 6265, NAC.

For the Canadian negotiators, preliminary consultations with industry and with the US government negotiators had been relatively easy; the toughest battles in the Auto Pact were not fought with the Americans, but with their own political leaders. From an analytical perspective, we see once again how a substantive turning point toward settlement was achieved through the influence of new forms of domestic stream coupling. Once a new problem with Congress was recognized, attempts were made to match it with various solutions that were taking shape and competing for acceptance in the alternative stream. Once the idea of industry inclusion met the alternative stream survival criteria of technical feasibility and coherence with political values (or the bureaucratic reading of them), the final authority for the acceptability of the proposal remained in the politics stream. There, the new coupling of alternatives and politics would determine whether the proposal would successfully make the transition from alternative stream idea to politics stream decision.

Bargaining Analysis

In the second round of negotiations, the Canadians pushed for a settlement point close to their maximum desired outcome. The Americans on the other hand were less open to cooperation than they had been in the first round because of the Congressional retaliation issue. Not only were the Americans unwilling to move closer to the Canadians' maximum outcome, they were forced to backtrack from the position agreed to at the end of the previous round. This left Canada with fewer acceptable negotiated settlements to feasibly pursue as well. The perception of diminishing options on both sides is depicted graphically in Figure 5 below.

FIGURE 5: CANADA-US WIN SET DYNAMICS AFTER ROUND 2

In Figure 5 we see the national reservation outcomes shifting inward to admit a smaller range of negotiated settlements. The reason for making this inference is because initially, the United States seemed open to virtually any form of bilateral arrangement with Canada that provided an alternative to the unilateralism of the Drury Plan. By the end of Round Two, the set of alternatives acceptable to domestic constituents had shrunk because of the elimination of any negotiated settlement that limited Congress's right to retaliate, even when this right had been given up voluntarily. This contraction in the win set is depicted in the movement from US Reservation Outcome $_1$ to US Reservation Outcome $_2$.

Similarly, we originally situated the Canadian reservation outcome at a point allowing for a broad range of settlements – as long as they met the conditions of guaranteed market share and protection from retaliation. While the response of Cabinet between rounds did not really reveal what sort of agreement would be preferable, the fatalistic mood that permeated Cabinet discussion suggested that guaranteed market share might not be enough to win sufficient Cabinet support for a negotiated outcome. Therefore, in Figure 5, we reflect the Canadian negotiators' perception of a diminishing

range of feasible options by shifting the location of the reservation outcome inward from Canada Reservation Outcome ₁ to Canada Reservation Outcome ₂.

The negotiations reached impasse on the question of how to guarantee Canadian production levels without the use of import restrictions. The Canadians could not convince the US team that curtailing Congress's ability to retaliate, even in just this one instance, would be an acceptable price to pay.

Practicality suggests that one reason for the unsatisfactory outcome of Round Two is that while it was relatively easy to get an agreement in principle, it was much more difficult to work out the specific details. Additionally, one cannot ignore the effect of the downturn in support in the Canadian politics stream and how this deflated the momentum of negotiations and made the negotiators more cautious about the concessions they were prepared to offer bilaterally. If negotiators perceive their domestic win set to be shrinking, then the overlapping space of the shared bilateral win set shrinks as well, making negotiated terms harder to reach. Thus, from the results of Round Two, we can infer that even though the agreement remained as important to both parties as ever in terms of practical implications for the continental auto sector, the range of acceptable outcomes contained within the shared win set was smaller than the negotiators for either side had originally perceived it to be.

Despite Cabinet ambivalence and rising concerns about Congress in the United States, Canada did make some headway in Round Two bargaining on a less important issue. The United States conceded to the Canadian demand that a proposed escape clause be abandoned. The Canadians also redoubled their efforts to ensure that the agreement would define specific target levels of Canada's share of the North American market. This

was believed to be an essential pre-condition for agreement because once the Canada had absorbed the cost of industrial restructuring, it would be all but impossible to reverse the process.⁴⁰

Round Two and its aftermath reinforces the argument made earlier about the effects 'deal-breaking' conditions on strategic choice. The original conditions imposed by Canada centred around guaranteed market share and, related to this, a shield from trade retaliation. Since Congress could not deliver this latter condition, Canada looked to industry to provide guarantees that would make it unnecessary to impose restrictions in the first place. As explained earlier, with no agreement preferable to an agreement absent key conditions, Canada's NAA supported continued competitive bargaining. However, some form of cooperative bargaining was also called for on non-essential conditions in order to create an environment conducive to bilateral problem solving for new challenges. Therefore, some combination of competitive behaviour (sticking to conditions) and cooperative behaviour (joint problem solving such as was demonstrated by the Reisman-Linville meeting) was required to achieve satisfactory outcomes.

NAA utility assessment also informed the tone of the Canadians' preliminary discussions with industry about possible inclusion in the negotiations. The negotiators warned industry that their future prospects in Canada without an agreement were very poor. The government had exhausted its supply of alternative commercial policies to support the auto industry.⁴¹ Apparently, this message was understood by the industry as

⁴⁰ Interview with Simon Reisman, May 18, 2002.

⁴¹ Notes of Meeting of September 19th in the House of Commons Between Mr. Drury and Presidents of the Six Leading Automotive Manufacturers," September 21, 1964, RG 20, Vol. 2053, F.V. 1021-11, NAC.

evidenced by their decision to be bound by the agreement. Thus, with a credible alternative method of achieving its production goals in place, the Canadians could reassess the potential agreement utility in a more favourable way and return to the table ready to complete the deal.

THIRD ROUND OF NEGOTIATIONS

The third round of negotiations was held in Washington on September 24 and 25, 1964. The Canadians interpreted these meetings as “reasonably satisfactory.”⁴² The Americans seemed enthusiastic about the Canadian proposal to conclude separate agreements with industry; they were willing to accept the tripartite plan in principle; and they agreed that the plan should come into force as quickly as possible. However, the US officials expressed reservations with respect to the effect of the Auto Pact on balance of payments. Given the recent history of exchange problems, the United States asked that the agreement between the Canadian government and the auto producers “leave room for extraneous forces to be taken into account.” Nevertheless, Canada won that point with the argument that, to be effective, the agreement would have to be “as precise as possible” with no room for exceptions.⁴³

⁴² Donaghy (2002), 53.

⁴³ J.F. Grandy, Memorandum for the Minister of Finance, 25 September 1964, RG 19, Vol. 3946, File 8705-02, NAC; Marcel Cadieux, Memorandum for the Minister, 29 September 1964, DEA File 37-7-USA-2-1, DFAIT; Memorandum of Conversation: Free Trade Arrangements for Automotive Products, 24-25 September 1964, RG 59, Box 1249, File IT 7-12 CAN, USNA.

The United States also had some concerns about the text of the agreement detailing in dollar figures the required balance between Canada's auto production and its auto consumption. Even though the administration claimed to be willing to grant Canada more than its fair share of the industry's growth during the next few years, it preferred not to spell out the specifics of the undertaking to Congress and the American electorate within the text of the agreement.⁴⁴ This appeal was also in vain. The Canadians remained firm in their demand that the final text of the agreement specifically articulate the terms of the expanded share of growth for Canada. Despite these differences, both sides acknowledged that they had achieved substantial areas of agreement in Round Three and expressed their willingness to continue to work out final details as long as the countervailing duties were delayed. In the meantime, Canada pursued talks with industry about production and investment targets.

Negotiations with Stakeholders

During the latter part of September 1964, Minister Drury began to hold meetings in Ottawa with the Canadian subsidiaries of the Big Three plus American Motors, Studebaker, and International Harvester as well as representatives from industry associations.⁴⁵ Drury advised the core Canadian stakeholders that Treasury was likely to find against the Canadian program but that Canadian and US officials had been working

⁴⁴ Interview with Simon Reisman, January 14, 1998.

⁴⁵ "Notes of Meeting of September 19th in the House of Commons Between Mr. Drury and Presidents of the Six Leading Automotive Manufacturers," September 21, 1964, RG 20, Vol. 2053, F.V. 1021-11, NAC. Anastakis (2001) provides considerable detail regarding the role of the auto manufacturers in the development of the Auto Pact and the autumn 1964 consultations, 194-6 and 198-201.

together to come up with a solution based on dual agreements. The Government of Canada would enter into one agreement with the government of the United States and another set of agreements would be made with the automakers that specified each firm's production and investment targets.

During the government-industry consultations, the American industry representatives were fairly open to the proposed agreement, but there was some resistance on the part of the senior executives from the Canadian subsidiaries who had become accustomed to a fair degree of independence from Detroit in the past. They realized that with the rationalization of the continental market, an even greater share of decision making authority would be held by the US parent companies.⁴⁶ However, Minister Drury warned the executives that if the Canadian subsidiaries were unwilling to go along with the proposal, they would be left to find their own way through the current dispute.⁴⁷

Reisman and his colleagues were on hand during these meetings to review the terms of the proposed dual agreements. They explained that the government was seeking some form of written guarantee of auto sector commitment to the program. If target production levels were not met, duty-free status would be rescinded. In exchange, the government was prepared to offer a number of allowances and guarantees of its own. One of the primary questions raised by the industry representatives had to do with the permanence of the arrangement, i.e. was it likely that the automakers would invest in a new production scheme only to have it reversed in a few years by a change in

⁴⁶ Interview with Doug Arthur, May 16, 2003.

⁴⁷ Anastakis (2001), 194.

government policy? Reisman attempted to allay the automakers' concerns by reminding them that the stakes were high for all parties to the agreement:

The US Administration could upset the scheme if they wanted to be foolish but they are not dull. They know it would not be in keeping with their international trade objectives to force us into an inward looking policy.⁴⁸

Some of the other assurances made to industry were:

- There would be no gap between the existing remission plan and the proposed program.
- Canada could not be used as a duty-free export platform to the United States by foreign auto makers. The government would determine who qualified as a manufacturer under the agreement and only companies producing in Canada in the 1963-64 base year would be considered.
- The government would avoid tight administrative controls and surveillance to ensure that production targets were met. Compliance would be the responsibility of the individual companies because the Canadian officials felt the spectre of less desirable alternatives would facilitate self-enforcement across the industry. Since goals would be set collectively, if one company was unable to fulfil its share of target production, others could make up the shortfall.

Once all of the implications had been explored with the officials, the Canadian subsidiary representatives left to discuss the agreement with their US parent companies. This meant, of course, that the content of the Ottawa meetings was relayed back to the

⁴⁸ Reisman quoted in Anastakis (2001), 195.

American bureaucrats through the US industry representatives.⁴⁹ However, rather than undermine the Canadian position, this communications 'back channel' created more leverage for the Canadians because the major players in the Big Three were now directly lobbying the White House in support of the proposed Auto Pact.⁵⁰

The arrangement required considerable commitment from the motor vehicle manufacturers but the benefits were sufficiently attractive that the firms were willing to make the effort and the internal objections within Canada's subsidiaries were ameliorated. The response of the other Canadian organized interests was mixed.⁵¹ There was a high degree of concern on the part of smaller and less competitive firms. These smaller manufacturers asked for (but did not receive) special safeguards to minimize dislocation in their industry, particularly during the initial phase of the program.

The greatest uncertainty, however, came from the Canadian branch of the United Auto Workers (UAW)⁵²—they were interested in the benefits of the arrangement but asked that appropriate steps be taken to reduce any burden that might fall on their members as a result of industry adjustment. Ultimately, Walter Reuther, the head of the UAW in the United States, was influential in bringing the Canadian unions around in support of the deal.⁵³

⁴⁹ Anastakis (2001), 199.

⁵⁰ Interview with Doug Arthur, May 16, 2003.

⁵¹ Memorandum for the Cabinet, 18 November 1964, RG 19, Vol 3946, File 8705-02, NAC.

⁵² The Canadian branch split from the US section in the mid-1980s, creating the Canadian Auto Workers.

⁵³ Anastakis (2001), 144. See also Nelson Lichtenstein, *The Most Dangerous Man in Detroit: Walter Reuther and the Fate of American Labor* (New York: Basic Books, 1995).

Although informal negotiations between officials had been ongoing for at least four months prior, and the terms of the agreement were all but concluded, it was not until September 17, 1964 that Cabinet formally approved the recommendation of Minister Drury, that a Canadian negotiating team enter into formal discussions regarding the automotive industry program with the United States government. At the same time, Cabinet also gave formal approval for separate negotiations with the Canadian automotive industry.

Even with formal direction by Cabinet finally in place, the news about the negotiation was still not made public. On September 25, Drury was asked during Question Period in the House of Commons what was being done about the US threat of countervailing action in the auto sector. Drury responded that Canada and the United States were continuing “the closest of consultation with a view to exploring all possible contingencies, all possible eventualities, and seeking solutions thereto.”⁵⁴ As a result of speculation in the *Financial Post* some weeks later about a pending auto deal, opposition MPs pushed for more specific details.⁵⁵ Drury finally announced on October 25th that Canada was seeking alternatives to the existing automotive parts incentive program which would serve to rationalize the Canadian automotive industry and expand the north-south trade in auto parts.⁵⁶

Although both sides had promised that the negotiations would be kept confidential, the media leaks added pressure to the negotiations. Modine Manufacturing

⁵⁴ Canada, House of Commons, *Debates*, 25 September, 1964, 8288

⁵⁵ “Next Canada-US meeting may settle touchy auto parts plan.” *Financial Post* (October 10, 1964), 29.

⁵⁶ Formal announcement of the program came on October 25, 1964 (*Debates*, 3999-4001).

was enraged with the US government when it learned that its complaint had been sidelined in favour of free trade with the Canadians in the auto sector. Together with other allies in the US parts industry, Modine began to strenuously lobby Capitol Hill and the White House.⁵⁷ However, these appeals were not sufficient to cause the Americans to break off or alter the terms of their discussions with the Canadians or with the Big Three.

Domestic Streams

When bilateral bargaining reached a substantive impasse in Round Three, a second level of bargaining with industry and stakeholders was required in order to permit the successful conclusion of the primary agreement with the United States. Although Canada's negotiations with the Big Three were rather more formalized than what has been identified in multiple streams theory for purposes of coalition building in the politics stream, the government-industry talks were functionally equivalent to politics stream coalition building. They established the feasibility of a proposal that had been generated in the alternative stream and provided political decision makers with necessary supports to select a particular problem-alternative set. A policy window opened when it was recognized that the problems emerging at the bilateral table could not be settled at the bilateral table and a new mandate was required. The new configuration of alternative-problem streams passed through a policy window in the form of a revised mandate. Under this new mandate, negotiators could form a cooperative, bilateral agreement for the auto sector that met the same conditions as before. Canada would receive a

⁵⁷ Anastakis (2001), 200.

guaranteed share of the North American market and vulnerability to trade challenges was reduced through contractual linkages to the auto makers

Bargaining Analysis

Bargaining theory would identify the inclusion of the automakers to the agreement in similar analytical terms to those of multiple streams, representing moves away from the table to solve a problem that could not be solved through bilateral bargaining alone. Recalling the illustration presented earlier in Figure 5 where the US national win set contracted as a result of the problem of imposing a waiver on Congressional retaliation, Figure 6 (below) shows the US win set expanding as a result of the introduction of a potential solution of the Congressional problem being introduced.

FIGURE 6: CANADA-US WIN SET DYNAMICS AFTER ROUND 3 AND CANADIAN OVERTURES TO INDUSTRY

Bilateral bargaining in Round 3 leads to joint decision to bring industry into formal arrangement. Industry gives provisional assent providing a greater range of potential settlements that would be acceptable to both governments. Thus, the zone of potential agreement expands once more from Res_2 to Res_1 .

The negotiating behaviour of the Canadians in these negotiations – both with the Americans and the auto firms – continues to be competitive on key conditions. As hypothesized earlier, this behaviour was not the result of a particularly good no-

agreement alternative, but because no agreement was preferable to an agreement without these conditions.

FINAL ROUNDS

The final rounds of full bilateral negotiations were conducted in late October and early November of 1964 following extensive consultation by negotiating teams with their respective governments as well as with various industry officials and other stakeholders. The Americans returned with recognition by the White House that the Canadian proposal represented the best way to defuse the threat posed by Canada's continuation of unilateral incentives and remissions plans. The US delegation was instructed to pursue the proposal on a "very serious" basis.⁵⁸

The resolution of the deal hinged on a few key elements:⁵⁹

- *Duty-free trade in vehicles and parts between Canada and the United States* - For the United States, duty free status was conditional upon maintaining a Canadian production to sales ratio of 75 to 100.

⁵⁸ Marcel Cadieux, Memorandum for the Minister, 19 October 1964, DEA File 37-7-1-USA-2, DFAIT; Memorandum to the Cabinet Committee on Finance and Economic Policy, 16 November 1964 and Memorandum for the Cabinet, 18 November 1964, RG 19, Vol. 3946, File 8705-02, NAC; Memorandum of Conversation: Possible US-Canadian Free Trade Arrangement in Automotive Products, 9 October 1964; and Memorandum of Conversation: Possible US-Canadian Free Trade Arrangement in Automotive Products, 12-13 November 1964, RG 59, Box 1249, File IT 7-12 CAN, USNA.

⁵⁹ These are set out in greater detail in Donaghy (1998), 29-30. See also the summary of the agreement in Johnson, "The Effect of the Canada-U.S. Free Trade Agreement on the Auto Pact."

- *Explicit recognition* – The US delegation agreed to specific acknowledgement in the text of the agreement of Canada's intent to achieve a more equitable balance of continental auto production.
- *Production commitments* - On automotive production commitments, the United States made assurances that it would consider these commitments to be internal matters between the Canadian government and the auto makers. Since these would not be brought before Congress, the Canadians could be as specific in these commitments as they wished.
- *Bona fide manufacturers and anti-disruption language* - Substantial agreement was reached on the definition of a Canadian motor vehicle manufacturer, which would determine eligibility for the program. This definition included provisions for the maintenance of existing domestic assembly operations and content provisions to protect independent parts' manufacturers from competition from the United States. These provisions were intended to maintain employment and avoid disruptions from the new program.
- *Replacement parts* – The United States brought demands to the table to support its domestic auto parts industry, suggesting that replacement parts gradually be subsumed under the deal. Ottawa was reluctant to add these commitments until it saw how new parts manufacturers would fare under the plan and the replacement parts issue was held over for later discussions.
- *Enforcement mechanism* - Much progress was made during the final round but there remained outstanding the issue of Canada's desire to legitimize sanctions in the agreement if the automotive manufacturers failed to meet their production

targets. During consultations with Drury, industry representatives had expressed their support for sanctions. However, Trezise had already informed the US industry that the government would not participate in sanction activity. The Canadians reconciled themselves to the fact that the program would be attractive enough to manufacturers to be self-enforcing.⁶⁰

- *Term of the agreement* - Both sides wanted the agreement to convey an impression of permanence in order to encourage automotive companies to invest in new Canadian production facilities. As well, both sides opposed easy escape from the terms of the agreement, but the United States was also concerned that Canada would introduce another set of objectives when the initial period was over. The Americans advocated a long but finite period for the agreement with specific prohibitions against government interference. At the end of the stated period, they argued, market forces should be allowed to guide the future development of the industry. The Canadian delegation rejected the American view, arguing that market forces had created the current institutional and structural barriers that impeded the growth of Canadian industry. The Canadian side was not willing to commit to a single term agreement or a single set of objectives since the need to continue the transitional arrangements could only be determined through experience and observation of how well the market changes were taking hold.⁶¹

⁶⁰ This exchange recorded in Donaghy (1998), 29.

⁶¹ Interview with Simon Reisman, January 14, 1998.

As the following account by Canadian negotiator Jake Warren indicates, the issue of limiting the term of the agreement also created some tension within the Canadian team:

We were reaching the point in the negotiations where the question was what kind of a transition period should be invoked? Our position was that it should be long and very flexible. The American position was that it could be long but there had to be a definitive end to it. Anyway, I had the temerity at some point to make a suggestion about some possible way out of this dilemma—and it did not sit well with Simon. I certainly was not proposing that we adopt the American solution, but Simon just turned like a tiger and said ‘Okay, Jake, do you want to take over this negotiation or who’s going to do it?’

And I said, ‘You’re the main negotiator – away you go.’ So we had some talks overnight. I don’t know how it all went but in the morning the formula emerged for an indeterminate period subject to a three-year review. And we lived with that and avoided any commitment to end the interim arrangement for all those years.⁶²

The question of time limits was the only issue on which the American negotiators did not themselves concede. Trezise and his negotiators referred the issue to the political level and George Ball instructed his team to “give the Canadians what they wanted.”⁶³ Ball and the National Security Council approved the deal with an unlimited term.

Reisman’s insistence on the longest possible term for the agreement was based on the understanding that it would take considerable time to get production up to the target levels set out in the agreement. While the Canadians saw the three-year review as an opportunity to put in place such additional measures as might be necessary to achieve Canadian objectives, evidence suggests that the Americans believed that the end of the

⁶² Interview with Jake Warren, March 7, 2001.

⁶³ Ball’s instructions were recalled by Simon Reisman during an interview on May 18, 2002.

three-year period would mark the transition from a managed trade agreement to full free trade in automobiles without any conditions.⁶⁴ Doug Arthur elaborates:

The three years was a review date to look at what further steps might need to be taken to get an adequate level of Canadian production. The Americans clearly did not have that understanding. They believed that it would be over in three years and we would have free trade in automobiles. My recollection, however, is that there was never a serious discussion to resolve the misunderstanding.⁶⁵

Analyst Carl Beigie identifies the source of the misunderstanding as differing national interpretations of the plan's objectives. As they are set out in the legal text of the Automotive Products Trade Agreement, Article 1 b) calls for:

liberalization of United States and Canadian automotive trade in respect of tariff barriers and other factors tending to impede it with a view to enabling the industries of both countries to participate on a fair and equitable basis in the expanding total market of the two countries.
[emphasis added]

For the Americans, the dominant interpretation put the priority on market liberalization, while the Canadian focus remained on "fair and equitable" market share, i.e. producing at least as many vehicles in Canada as were sold in Canada, regardless of whether that took place under conditions of full free trade or not.⁶⁶

⁶⁴ Interview with Simon Reisman, January 14, 1998.

⁶⁵ Interview with Doug Arthur, May 16, 2003. When the first three-year review was conducted, it became clear to the Americans that this was a review of a now-entrenched agreement, not one that could now be set aside in favour of full free trade. A survey of US media and industry reports of the period reflects a degree of bitterness that the US appears to be bound indefinitely to the production guarantees.

⁶⁶ Carl Beigie, *The Canada-U.S. Automotive Agreement: An Evaluation* (Montreal: Canadian-American Committee, 1970), 124.

Results of the Process

Ball and the National Security Council approved a recommendation from Trezise and McNeal that the United States should finalize a deal along the lines of the Canadian proposal. Ball was satisfied that by giving a modest increase in automotive production to Canada, a trade war was avoided, and the progress had been made toward continental rationalization of production.⁶⁷ Reisman and others recognized that, as a result of the Auto Pact, bilateral trade relations had entered a new phase:

The Auto Pact was a Canadian attempt to reconcile its protectionist legacy with a clear need for increased trade. George Ball warned me at the time that making a deal like the Auto Pact will break some eggs that once broken, can't be put back again.⁶⁸

A last meeting of both teams was held in Montebello, Quebec in December of 1964 to finalize drafting language.⁶⁹ At the same time Minister Drury was concluding negotiations with Canada's three largest automotive manufacturers, Ford, Chrysler and General Motors, as well as with American Motors, on their investment targets under the agreement. Despite general consent for the agreement by the auto industry, the negotiations on production targets with the individual automakers had become challenging and Drury, assisted by Arthur, found himself negotiating down to the wire at the end of year deadline in order to allow Johnson and Pearson to make a planned announcement of the agreement on January 1. Although we cannot know for sure what

⁶⁷ Donaghy (1998), n.60-61.

⁶⁸ Interview with Simon Reisman, January 14, 1998.

⁶⁹ J.F. Grandy, Memorandum for the Minister, 9 December 1964; and Memorandum for the Cabinet Committee on Finance and Economic Policy, 15 December 1964, RG 19, Vol 3946, File 8705-02, NAC; Marcel Cadieux, Memorandum for the Minister, 10 December 1964, DEA File 37-7-1-USA-2, DFAIT.

sort of a deal the auto makers would have received if they had not adopted the competitive strategy of pushing the negotiations to the limits of a politically-significant deadline, Doug Arthur recalls that these negotiations were painstaking and “harrowing” at times.⁷⁰

The Automotive Products Trade Agreement was signed in January of 1965. At the time the Auto Pact was introduced, it was the single most important bilateral economic initiative in the post-war period. While it did not eliminate Canada’s current account deficit, bilateral trade in automotive products rose dramatically from \$1.2 billion in 1965 to \$3.5 billion in 1967, and to \$6.7 billion in 1969.⁷¹ Equally significant was the fact that the Auto Pact allowed for a limited form of Canada-US free trade, at least on a sectoral basis, for the first time since 1911. Bilateral free trade was subsequently endorsed at the Liberal Party national convention in 1966.⁷² In 1974, Simon Reisman received the Public Service Outstanding Achievement Award in recognition of his many contributions, chief among them the Auto Pact.

Domestic Streams

According to multiple streams analysis, national mood can make an important contribution to politics stream decision making but, as pointed out earlier in this chapter, the public was virtually unaware of the bilateral Auto Pact negotiations taking place.

⁷⁰ Interview with Doug Arthur, May 16, 2003.

⁷¹ Reisman Report, Appendix A-1.

⁷² It did not, however, remain high on the party agenda after the convention. See William Diebold, “Canada and the United States: Twenty-five Years of Economic Relations,” *International Journal*, Vol. XXXIX, No. 2 (Spring 1984), 403-4.

Judging by the lack of public protest once the government belatedly announced its intention to negotiate an agreement with the United States, Cabinet's prior assessment of national mood seems to have been proven right. In Chapter 4 it was argued that national mood reflected Canadians' concern with economic stability in the short term more than the longer-term threat of increasing US ownership of Canadian productive capacity. The limited public response to the government announcement indicates that the decision to keep the negotiations a secret for four months caused no major problems for the Canadian government, as long as jobs were safe. Because the Auto Pact was a narrow sectoral agreement requiring only focused consultation with principal stakeholders, little public support was required in order to effectively implement the agreement. Nevertheless, when compared to the modern demands for public participation in the creation of trade agreements, the consultative efforts of the federal government in the Auto Pact case were surprisingly sparse. This limited public input can also be contrasted with the important role of public opinion in the politics stream in the subsequent CUFTA case study.

Where the government was more vulnerable was in another key area of the politics stream, that of organized interests. However, having kept the Canadian subsidiaries of the Big Three advised of essential developments throughout the process and brought them in formally after Round Three, the most important components of Canadian organized interests were in support of the government position. The second most influential interest, the Canadian auto workers union, also consented to the agreement, due in some measure to intervention by US labour to bring their Canadian colleagues on side – another example of policy entrepreneurship to build coalitions in support of politics stream decision making.

Compared to Canada, the response from US-based organized interests to the agreement was less sanguine. Canada had to contend primarily with the Big Three and the unions as well as a handful of smaller parts manufacturers who would be likely winners from increased production in Canada. In the United States, the Big Three automakers would be clear beneficiaries from the agreement, and the auto workers' unions had followed them in consenting to the agreement. However, the future of smaller manufacturers, such as Modine Manufacturing, in the face of expanded Canada production, was not at all certain. Modine's response to having its complaint sidelined was bitter but ultimately it had no impact on US actions as demonstrated by the fact that the negotiators continued to work with Canada on the agreement.⁷³ It is quite likely that the government's resolve not to cave to small producer pressure was strengthened by Big Three lobbying in favour of the agreement and perhaps Ball's continued policy entrepreneurship efforts.

Bargaining Analysis

The negotiations with the Canadian subsidiaries provides an example of bargaining within the domestic politics stream in order to build support for a proposal under

⁷³ The lack of change in US policy direction suggests that Modine did not carry a coalition of sufficient weight to outweigh the US Big Three and convince the US team to change tactics. In Kingdon's terms, while the policy window may have been open, it was not sufficiently large (or Modine not sufficiently skilful) to bring the preferred government action to light. On the other hand, we can speculate that the force of the political opposition by Modine and other smaller firms might have been offset by some sort of side payments as means of compensation. The existence or extent of side payments to Modine and other parts manufacturers as a result of the Auto Pact is not known, however Modine Manufacturing and its subsidiary Thermacore International are today leading international suppliers of cooling technology products for automotive, aeronautic and industrial applications. They hold numerous defence contracts and are involved in joint ventures in locations around the world including Canada. See "Modine Unit Awarded Raytheon Contract," *The Business Journal of Milwaukee* (February 18, 2003).

consideration by political decision makers. We drew the rationale for this type of bargaining from Kingdon's multiple streams framework and developed an expanded theory of how the dynamics of such bargaining operated through the addition of synthetic utility bargaining theory propositions about objectives and strategies. In the Auto Pact illustration of bargaining with industry, we can observe how alternative stream proposal development and politics stream coalition building overlapped. When Minister Drury and his officials were bargaining with industry, it was not simply coalition building to minimize political risk with organized interests – as this thesis predicted would occur in the politics stream – it was also to create the feasible technical elements of that initiative among policy community members – as we predicted would occur in the alternative stream. From this example we can see that the division between political decision making and technical alternative specification is not as watertight as it may be presented in theoretical models.

During the negotiation of the terms of the production commitments with the Canadian subsidiaries, it was obvious that neither the government nor the auto makers was willing to see the agreement abandoned. The no-agreement alternative was poor for both and cooperative bargaining was called for. Nevertheless, the subsidiaries had some leeway in terms of defining what was reasonable in terms of production targets. Other bargaining leverage was also available to the auto makers because the government was dealing with each company individually. These characteristics of ambiguity and uncertainty made the bargaining process more complicated and put more pressure on the government. The companies could also bargain more competitively because a fixed deadline, January 1, 1965, increased the urgency for settlement.

Even after work in the domestic streams had successfully brought industry into the agreement, a number of issues remained on the bilateral table. The United States requested that the agreement contain more vague language and flexibility in production targets. This demand was refused by the Canadians. A request for balance of payments exceptions was similarly rejected.

It has elsewhere been argued that Canada could maintain a competitive strategy with the United States *despite a poor NAA* because competitive bargaining was needed to obtain key conditions which, if not achieved, would make no agreement a superior alternative. With guaranteed production targets and protection from trade challenges, Canada would benefit from an agreement but, even so, Canada was taking a risk on such unknown elements as:

- various structural and market impediments being overcome;
- Big Three adherence to commitments, and
- US consumer willingness to buy Canadian-made cars.

Therefore, in the face of these risks, Canada could make a credible threat to abandon the agreement if certain deal-breaking conditions were not met. On the other hand, by the latter stages of negotiations, these conditions had largely been met. Nevertheless, the United States continued to capitulate to Canada on matters of some importance to the Americans.

One reason for the US capitulation on these final issues can be attributed to the overall importance of the agreement to Ball and his willingness to mobilize and sustain support for a bilateral agreement among both US and Canadian political decision makers through policy entrepreneurship. We can also speculate that US concessions on the

details of the agreement were the result of an underdeveloped US bargaining strategy. As noted in Chapter 2, during patterned exchanges of demands and concessions, each side attempts to incrementally mete out their offers of concessions in order to have bargaining resources left in reserve through to the end of the negotiation process. Having maintained a cooperative, problem-solving stance throughout the negotiations, the United States appears to have become stuck in that pattern and held nothing in reserve for the final stages.

Because of the lack of source evidence from US negotiators⁷⁴, these arguments are based on inference drawn from the reports of Canadian negotiators, the general statements made by George Ball about the importance of Canada-US relations, and his specific instructions to the US negotiators to “give the Canadians what they wanted” with respect to an unlimited agreement term.

From the outset, the Americans characterized a bilateral agreement as consistent with their broad interests but perhaps had neglected to translate general goals into specific bargaining positions or to map out strategies to respond to various contingencies. In the end, the Americans had no choice other than to give in to Canadian demands or risk losing the agreement altogether. At this point the prospect of no agreement would have seemed inferior to an agreement that was almost within reach, prompting a continuation of US cooperative bargaining.⁷⁵

⁷⁴ Preliminary telephone discussions about the Auto Pact were held between the author and Phil Trezise in the preparation of this thesis but Mr. Trezise passed away before scheduled interviews could be completed. He was predeceased by McNeal and Katz.

⁷⁵ The issue of cooperative bargaining as a final settlement comes within reach is re-visited in the Chapter 7 CUFTA discussion.

Despite greater economic power overall, the United States, like Canada, had a poor alternative to a negotiated settlement. With the Big Three pulling the strings on both sides of the border, the US lacked the clout to extract concessions from Canada that would put the agreement in jeopardy. Reisman was aware of this and used it to his advantage by holding firm against US demands. While Canada also had a poor no-agreement alternative, Reisman made it clear to the Americans that losing the deal would not be as damaging to Canada as making massive investment in plant capacity to service the North American market and then being unable to realize its intended objectives.

The final sticking point in the bilateral negotiations was the term of the agreement. Reisman's persistent demands for an unlimited term caused internal divisions among the Canadians. Differences in negotiating style are key to understanding the rationale for this dispute. For negotiators such as Reisman, each negotiation represented a distinct battle on its own. For negotiators such as Warren (who challenged Reisman on his combative approach) the nature of the broader negotiating relationship was an overriding concern. From Warren's perspective, the trade negotiators from Canada and the United States would be brought together on many occasions over numerous issues. Problems that were ignited in one negotiating table could be carried over into the next. Warren's awareness of the larger context of Canada-US commercial negotiations predisposed him to more cooperative approaches so as not to plant seeds of animosity that could affect future negotiations. This view is consistent with the theoretical claim made by Lax and Sebenius that invoking repeated dealings or embedding one negotiation

into a series of interactions can induce negotiating parties' interests in building the relationship and in more cooperative behaviour⁷⁶

For Reisman, by contrast, every negotiation represented a new battle and a competitive strategy was his default method of engagement if it served immediate, tangible objectives.⁷⁷ Neither Warren's nor Reisman's approach is intrinsically superior without reference to the broader context, but the differences serve to illustrate that strategy based on utility assessment only tells part of the story. From time to time, individual negotiating styles and personalities also have to be considered as a factor influencing bargaining outcomes.

Tracing the Auto Pact Policy Development Process

The trajectory of Auto Pact policy development was propelled by the integration of multiple streams and negotiation dynamics. This is illustrated in a process tracing chart (Table 3) at the end of this section that sets out the key events and responses reviewed in Chapters 4 and 5. The purpose of process tracing is not simply to provide an analytical review of the events surrounding Auto Pact policy development and their effect on decision making but to reveal the integration of multiple streams and synthetic utility bargaining concepts. Of particular interest are areas where we can identify a shared point of contact and synergy between the two analytical areas, such as where a decision to negotiate bilaterally that passes through a multiple streams policy window also represents

⁷⁶ Lax and Sebenius (1986), 165.

⁷⁷ These inferences about each man's negotiating style are drawn from a number of interviews and conversations with both Reisman and Warren. Reisman frequently dismisses the cooperative strategy with his observation that "You can always make a deal on the other fellow's terms."

the formation of a synthetic utility bargaining mandate. And, such a point may be concurrently identified in negotiation process tracing as a turning point toward settlement. Similarly when negotiators return from the bargaining table, the results of the round may trigger a domestic problem that opens another policy window as politicians must decide whether to maintain or change the bilateral bargaining strategy.

Initially, in the Auto Pact case we see how a problem of auto sector competitiveness, recognized in the early part of the 1960s, opened, perhaps only partially, a policy window for reform. The overriding preference for nationalist solutions in the Diefenbaker era politics stream influenced problem-solution coupling to bring about a moderate duty remission plan. We identified incomplete stream coupling as a result of limited interest in the politics stream as a factor contributing to incremental rather than more radical policy change. (In multiple streams terms, the issue found a place on the governmental agenda but not the more important decision agenda.)

Government turnover from Diefenbaker to Pearson subsequently re-cast the composition of the politics stream. This change, combined with feedback in the problem stream on shortcomings of the prior duty remission program, put the issue on the governmental agenda but, as we witnessed under Diefenbaker, this was another case of incomplete stream coupling and lack of prominent placement on the decision agenda. The government responded, therefore, with an off-the-shelf solution in the form of the Drury Plan and the policy window closed.

Despite demands by the United States to withdraw the remission scheme, Canada remained non-responsive to suggestions of a joint auto accord until the Modine complaint refocused political attention on problems in the auto sector. The complaint was a focusing

event with implications of sufficient magnitude to have immediate impact in the problem stream and politics stream, thereby opening a policy window once again. Due to prior study and awareness of the issue in the policy community, alternatives related to bilateral cooperation had already been generated in the alternative stream but had not had much prior consideration because of lack of political will.

A limited but sufficient coalition within the Cabinet recognized that the Modine complaint was a problem with implications for all auto exports and, therefore, a candidate for coupling with a bilateral solution. As well as being a focusing event for politicians, the Modine complaint also marked the first definitive turning point toward the settlement of a bilateral agreement because it set in motion both bilateral negotiations and domestic streams activities. Cross border attempts at coalition building by US actors in the Canadian political stream were identifiable after the Modine complaint but these were really only effective when the US raised the costs of failure (worsened the utility of the NAA) by expanding the reach of countervailing duties.

Once a decision was made to negotiate with the United States, the locus of activity shifted from domestic streams to the external negotiating table. The negotiators carried with them the general mandate to create a joint auto agreement with the United States. A cooperative bargaining strategy for Canada seemed to be indicated based on the perceived utility of the NAA. The Canadian NAA was poor when the cost of failure was the imposition of CVDs on radiators only, and it became even worse when the US Treasury Department expanded the range of goods to be targeted by CVDs to all Canadian auto exports.

Despite the surface logic of cooperation, however, Canada used a more competitive strategy during the bilateral negotiations because an agreement that failed to fulfill key conditions would be worse than no agreement at all. Before Canada was willing to dismantle its existing system of protection and invest in new productive capacity and infrastructure, it had to be sure that the US was fully committed to such conditions as guaranteed market access and guaranteed levels of production in Canada. In addition, Canada had the policy entrepreneurship of George Ball and the support of the Big Three adding pressure for outcomes favourable to Canadians.

Between the first and second rounds, events away from the table threatened to derail the process. The problem of curtailing Congress's right to retaliate against unfair subsidies represents not only a turning point away from settlement (in the synthetic utility sense), it simultaneously returned the onus for problem solving to the domestic sphere. The emergence of a problem of Congressional support was recognized by political decision makers as serious enough to open a policy window (in the multiple streams sense). This required bureaucrats to return to the alternative stream to devise alternate configurations of the agreement, and to sound out the politics stream for support for re-configured alternatives. This new problem made it impossible to fulfill the original negotiating mandate and halted further work at the external negotiating table until a technically-feasible, politically-acceptable solution could be found.

Once specialists within the domestic alternative stream determined that a tripartite agreement with industry was feasible, a revised mandate for such an arrangement was sanctioned in the politics stream. The politics stream was also where government-industry bargaining took place. In these bargaining sessions, the NAA for both sides was

poor – neither wanted to risk the loss of Big Three operations in Canada. Nevertheless, industry representatives, negotiating with the government as separate firms, adopted a somewhat competitive strategy by holding out as the negotiations approached the end of a politically imposed deadline in order to exact a better deal from the government negotiators.

In the end, the tripartite arrangement put the Auto Pact process back on track toward settlement. It is interesting to note as well that external events such as crises and focusing events no longer seemed to be steering the process as much as human creativity in the alternative stream and coalition building in the politics stream.

The final stumbling block that emerged was whether or not to impose time limits on the agreement. When the question could not be resolved at the bilateral table, it had to be settled within the US politics stream. The decision to concede to this last Canadian demand was ultimately made by Ball, whose efforts as a policy entrepreneur had consistently cleared away the major substantive obstacles in the way of a bilateral accord.

TABLE 3: AUTO PACT PROCESS TRACING – TURNING POINTS AND WINDOWS
<p>Bladen Royal Commission</p> <ul style="list-style-type: none"> • Problem of competitiveness is recognized by government. • Options are sought in the solution stream through analysis. • A policy window for auto reform opens.
<p>Nowland Plan (Moderate Duty Remission)</p> <ul style="list-style-type: none"> • Policy offers improved remission program but little consideration of rationalization of the North American market.
<p>Feedback and Political Change</p> <ul style="list-style-type: none"> • Feedback about limitations in the operation of the Nowland Plan and change of government from Conservative to Liberal suggest possibility of policy window opening for reform of the auto program.

Drury Plan (Strong Duty Remission) <ul style="list-style-type: none"> • Liberal government implements Drury Plan. • Feedback indicates plan is an economic success in the short term but also vulnerable to US trade complaints. • Displacement of US production is a focusing event for the US; • Joint action with Canada requested.
Canada Refuses to Negotiate Joint Auto Strategy with US <ul style="list-style-type: none"> • No major problem compels Canada to reform Drury Plan • Canada's rejection represents a turning point away from bilateral settlement
Canada Capitulates After the Modine Complaint <ul style="list-style-type: none"> • Modine complaint launches a problem in the Canadian problem stream – it is recognized as such by some decision makers. • Coalition building in politics stream to build support for bilateral options. • Policy window opens and the decision to negotiate a bilateral agreement passes through. • Canadian decision represents a turning point toward settlement
Pre-Negotiations <ul style="list-style-type: none"> • False starts but some progress. • Round ends without impasse; negotiators return to domestic decision makers to review progress • Time limit before imposition of CVDs is a procedural turning point generating momentum towards settlement
Round One of Negotiations <ul style="list-style-type: none"> • Substantial progress • Round ends without impasse; negotiators return to domestic decision makers to review progress
Events Away From the Table <ul style="list-style-type: none"> • Canadian Cabinet reluctance and US concerns about Congressional waiver represent a substantive turning point away from settlement • Coalition building/bargaining in politics stream required to resolve both of these problems.
Round Two of Negotiations <ul style="list-style-type: none"> • Ends in impasse until congressional issue resolved. • Congressional issue enters the problem stream, prompts evaluation in alternative and political stream – opens a policy window and resulting decision to negotiate with industry. • Successful negotiations with industry (preliminary commitment) ends bilateral impasse – substantive turning point toward settlement.
Final Rounds of Negotiations <ul style="list-style-type: none"> • Most outstanding issues are resolved except for time limits – substantive turning point away from settlement. • Time limit issue resolved through intervention by Ball – turning point toward final settlement.

In Chapters 5 and 6 we will repeat this analytical process to examine the agenda setting and negotiation dynamics of the Canada-US Free Trade Agreement.

Chapter 6

Approaching the Canada-United States Free Trade Agreement

Overview

The 1989 Canada-United States Free Trade Agreement was Canada's first successful attempt to negotiate a comprehensive free trade agreement with the United States after a series of failures in 1866, 1874, 1890, 1911, and 1948.¹ The decision to enter negotiations with the United States was a bold move for Canada's Progressive Conservative government and the agreement became a focal point of Canada's foreign and commercial policy at the time. At the level of bilateral relations, the agreement was characterized by a remarkable confluence of interests including the desire of two like-minded heads of state to address both Canada's concerns about domestic competitiveness and US concerns about its role as a global proponent of free markets.

The agreement provided for the elimination of substantially all tariffs between the two countries as well as a number of other trade barriers over a period of ten years but it

¹ Among these early attempts, the Elgin Marcy Reciprocity Treaty (1854-1866) provided for free trade in some natural products between Canada and the United States. The reciprocity debate that cost Laurier the election in 1911 is widely known. Less well known are the free trade negotiations undertaken by John Deutsch from Department of Finance and Hector McKinnon from the Tariff Board at the request of MacKenzie King in 1947-8. The Prime Minister had a change of heart about the domestic political ramifications of such an agreement. Not only did he recall the negotiators, he denied any knowledge of their activity, suggesting in his diary that it had been a covert scheme by the bureaucracy. See Hector McKinnon, "The Strangest Episode," Handwritten Memo, undated (c. 1972, Simon Reisman Collection, National Archives of Canada). See also, Hector MacKenzie, "The ABC's of Canada's International Economic Relations, 1945-51," Canada. Department of Foreign Affairs Historical Division (www.dfaid-maeci.gc.ca/departement/history/coldwar_section08-en.asp); and Michael Hart, "Almost But Not Quite: The 1947-48 Bilateral Canada-U.S. Negotiations," *American Review of Canadian Studies* 19:1 (1989).

also allowed for national exemptions in areas of domestic sensitivity. For Canada, these included cultural policies, regional development, farm marketing boards and services sector exclusions in health, education, and social services.

From a trade policy perspective, the free trade agreement broke new ground in areas such as investment and services that were not previously covered by trade rules. On many fronts, this bilateral agreement exceeded the commitments made multilaterally in the GATT.² Many of the new issues and approaches worked out by the negotiators in such areas as services, dispute settlement, trade remedies, and subsidies classification, were subsequently carried over into the multilateral agreements of the World Trade Organization and the North American Free Trade Agreement.

The CUFTA provided Canada with more secure and enhanced access to the United States market and at the same time created important incentives for domestic market restructuring for increased competitiveness. Since the agreement was implemented, two-way trade between the United States and Canada has more than doubled in value, with more than a billion dollars (US) in goods trade crossing the border daily.³ The free trade agreement gave rise to an unprecedented level of continental integration and created the institutional framework to support it. Although much work

² Through the 1980s and 1990s there was a certain amount of overlap between North American regional trade negotiations and multilateral negotiations. As well, the WTO was not officially constituted until 1994 so references in this text to multilateral trade agreements prior to that date refer to the GATT only. A general timeline of negotiations proceeds as follows: CUFTA negotiations – April 1986 to December 1987; Uruguay Round of GATT negotiations to launch the WTO – September 1986 to April 1994; NAFTA negotiations – June 1991 to December 1993. The overlap between arrangements is extended by the considerable preparation time required by governments prior to the launch of each set of negotiations.

³ 2004 data. Updated statistics about bilateral trade and investment flow are available on the DFAIT Canada-United States Relations Site at <http://www.dfait-maeci.gc.ca/can-am/>. More detailed information on Canadian trade flows can be obtained from Statistics Canada at <http://www.statcan.ca/english/Pgdb/Economy/intern.htm>.

remains before full free trade between the two countries is realized, the contribution made by the CUFTA negotiators and their political leaders laid the foundation for a new era of Canada-US commercial relations.

Similar to the Auto Pact, the Canada-United States Free Trade Agreement began as an unlikely notion that is today considered a fact of life by most Canadians. The CUFTA has even undergone political rehabilitation in the views of its original opponents. The Liberals easily shifted from blaming “every sparrow that falls”⁴ on free trade while in opposition to the aggressive pursuit of deeper and broader free trade initiatives when returned to office in 1993. In 2001 Liberal Industry Minister Brian Tobin even admitted to former Prime Minister Brian Mulroney before a crowd at the World Economic Forum in Davos, Switzerland that, as far as free trade was concerned, “you were right and I was wrong.”⁵

The decision to pursue free trade was years in the making. It would not be correct to say that trade policy decision makers or bureaucrats gradually warmed up to the inevitable idea of free trade with the United States after the success of the Auto Pact in 1965. According to one trade official, “Within the government, there was great interest in free trade in some areas and great suspicion in others.”⁶ Thus the free trade decision represented a singular convergence of economic problem, feasible alternative and, most

⁴ Quote attributed to Roy MacLaren, Liberal Opposition Critic for Trade, 1988 to 1993.

⁵ Reported by Diane Francis in *The Financial Post* (Tuesday, February 6, 2001).

⁶ Interview with Michael Hart, February 28, 2003.

importantly, political will. As Tomlin argues, CUFTA was “a policy that had been thrust on the agenda through a series of conjunctions of events.”⁷

Once again, to understand how a risky and unpopular idea makes its way to the top of the governmental agenda we return to the analytical model set out in Chapter 3 that integrates domestic multiple stream decision making with the outcome-shaping dynamics of bargaining at the bilateral and domestic levels. In this chapter, the examination of the processes leading up to the Canadian government’s decision to negotiate the CUFTA puts the major focus on the configuration of problem, alternative and politics streams, stream coupling and the opening of policy windows through which passed decisions shaped by stream coupling. Similar to the Auto Pact analysis in Chapter 4, this chapter starts with a problem-driven analysis, beginning with the constituent elements of the problem stream and working outwards to examine the composition of the alternative and politics streams. In looking at the conditions prevalent in each stream, this analysis will pay particular attention to key dynamics identified by Kingdon such as:

- indicators, feedback and focusing events that draw governmental attention to a problem;
- feasibility, value coherence and diffusion that move an idea to prominence in the alternative stream; and

⁷ Tomlin, “Leaving the Past Behind: The Free Trade Initiative Assessed,” (cited in Chapter 2), 57. This paper also uses a multiple streams framework to analyze the process of agenda setting and the decision to negotiate the CUFTA. The current chapter shares similarities to Tomlin’s article in that it identifies similar processes, events, and configurations of problem definition as contributing to the CUFTA decision. This chapter differs from Tomlin’s work in that it places more emphasis on the context in which free trade emerged (Canada-US economic relations, international context, and the historical legacy of free trade) while Tomlin offers a more succinct account of the linkage between key policy events (Trudeau’s Third Option, the sectoral negotiations) and the role of policy entrepreneurs (Derek Burney, Gerald Regan, etc.) Also, I put a more distinct separation between the Shamrock Summit announcement and the subsequent commitment to specifically pursue a bilateral agreement and focus on the importance of domestic coalition building in the politics stream during the intervening period to build support for the final decision.

- national mood, government turnover, and organized interests that precipitate (or impede) the likelihood of change in the politics stream.

The CUFTA analysis will continue to monitor bargaining in the politics stream in order to understand how domestic coalition building among stakeholders helps to move the bilateral trade issues onto the government's decision agenda, and to influence alternative selection. Following a more descriptive assessment of the conditions evident in each of the Canadian domestic streams prior to the CUFTA decision, this chapter will evaluate the dynamic elements of stream coupling as they precipitated and shaped decision making.

As has been set out in the multiple stream-synthetic utility model, the results of domestic stream coupling create a pathway into bilateral bargaining as a decision to negotiate moves through a policy window. This chapter will conclude with a review of stream coupling leading up to the decision to negotiation with the United States to determine how the domestic streams processes laid the foundation for the objectives and strategies to be pursued at the bilateral bargaining table. The bilateral negotiations will be covered in Chapter 7.

Agenda Setting and Alternative Specification in the Domestic Streams

Problem Stream

The problem stream is composed of indicators, feedback, and focusing events. These elements are not used primarily to determine if a problem exists – problem definition is a

matter of interpretation that takes place in the politics stream – but they do allow decision makers and those close to them to assess the magnitude of a problem and become aware of changes in the scope or nature of problem.⁸ When Brian Mulroney took office in September of 1984 as the twenty-third Prime Minister of Canada, there was no shortage of difficult economic conditions facing his Progressive Conservative government but determining which of these conditions would be defined as problems, and which problems could be met with technically feasible and politically viable solutions was far from clear.

The economy inherited from the Liberal Government of Pierre Trudeau was plagued with problems of competitiveness and loss of confidence. The Liberal government had foundered in its attempts to recover from an economic recession that had brought with it both inflation and high unemployment. Indicators of the economic difficulties facing Canada could be read at both the international and domestic levels. At the international level, oil shocks in the 1970s had set in motion a domino effect culminating in a severe global recession in the early 1980s.⁹ An economic recession is usually defined as two or more consecutive quarters of decline in GDP. For Canada, the official recessionary period had been relatively short, lasting from the end of 1981 through the beginning of 1982, but it had been sharper than what was experienced in the United States where stagflation in the 1970s gave way to recession in 1980 and 1981. The

⁸ Kingdon, 91.

⁹ A comprehensive summary of Canada's economic problems in the early 1980s is found in Denis Stairs and Gilbert R. Winham's introduction to *Canada and the International Political/Economic Environment*, Volume 28 of the *Final Report* of the Royal Commission on Economic Union and Development Prospects for Canada (Ottawa, Supply and Services Canada, 1985), (*Macdonald Commission Report*), 28: 1-8.

economic difficulties of the United States exacerbated the problems in Canada by increasing the prevalence of protectionist trade measures applied by Congress.

As the recipient of more than 60 percent of Canada's exports in 1980, the United States remained the nation's most important trading partner, so when the US economy slumped, Canada's followed suit. Even those Canadian industries that were internationally competitive saw their market share in the United States slip because of a lack of formal bilateral mechanisms to dampen the forces of rising American protectionism. For the United States, the primary driver of external trade was agriculture and its declining agricultural export revenues in the 1980s were a source of concern to Congress that spilled over into trade policy more generally.

Diminishing international market share, prompted demands by the US for other states to trade fairly and open their markets to American goods. Paradoxically, job loss in the US manufacturing sector, which was more reliant on domestic consumers, prompted demands for other states to trade fairly or US markets would be closed to their exports. This flexible interpretation of fair trading inspired by the global economic downturn saw US politicians in the early Reagan era calling for an odd combination of liberalized global markets to promote trade together with tougher domestic measures to root out instances of "unfair trading" against American firms. Aggressive trade remedy measures, permitted by section 301 of the 1974 Trade Act were firmly in place by the mid-1980s.¹⁰

Problem indicators from the international level were also related to Canada's slow response to shifting transnational production patterns. Horizontally-integrated production

¹⁰ See I.M. Destler, *American Trade Politics: System Under Stress*, Second Edition (Washington: Institute for International Economics, 1986).

and marketing chains were an emerging phenomenon and their architecture demanded a greater emphasis on efficient production and access to markets than on strong national borders. These newer forms of global production put pressure on industries that had originally been organized to operate solely within national boundaries. Not only were enterprises becoming transnational with respect to production and sales, international economic organizations such as the International Monetary Fund, the World Bank and the GATT were institutionalizing transnationalization through their policies related to the promotion of the free movement of goods, services, and capital.

Although trade had been an engine of growth for Canada, by the 1980s, the nation was lagging behind in its ability to meet the challenges of nascent globalization and was unable to perform at the level of efficiency demanded by the changing international economy, particularly in industrial manufacturing. Analysts in the early 1980s began interpreting these multi-layered indicators as harbingers of economic policy change:

As measured by rising ratios of trade to GNP, Canada's economy is now more internationalized than ever before, while at the same time the international economy is becoming a more difficult and competitive environment within which to operate. Together these developments put pressure on the Canadian government to rethink its traditional strategies in foreign economic affairs.¹¹

Historically, Canadian producers had been nurtured on nationalist industrial policies that could be traced as far back as John A. MacDonald's National Policy. However, by the late 1970s and early 1980s these types of economic interventions were becoming less effective. The feedback being returned to government was that the long succession of nationalist trade policies had outlived their usefulness. In order to compete

¹¹ Stairs and Winham, 7.

in the increasingly integrated global economy, Canadian firms had to become more efficient, strive to achieve economies of scale through participation in international production chains, gain greater exposure to large markets of willing buyers, and support these competitiveness efforts through stricter monetary, fiscal and tax policies.¹²

Indicators related to foreign direct investment (FDI) in Canada were as bleak as those related to export competitiveness. Canadian share of US FDI was declining in favour of other global locations. Multinational firms were phasing out facilities that had once been required for tariff avoidance and were now seeking out more efficient production and marketing destinations for their investments.¹³ There was also feedback from stakeholders that Canada's difficulties adapting to changes in global trade and investment patterns had been exacerbated by the inward-oriented government investment policies of the Trudeau era, such as the 1974 Foreign Investment Review Act (FIRA) and the 1980 National Energy Program (NEP). Both of which had served to limit the magnitude and nature of FDI in various ways. Although these policies were intended by the Liberal government to return control over Canadian productive assets to Canadians, they also had a chilling effect on inward investment.¹⁴ In addition, the lack of secure access to the large market to the south meant that investors from Europe and Asia tended to choose the United States over Canada when attempting to reach the North American market most efficiently.¹⁵

¹² Hart *et al.*, 17-22.

¹³ Gary Hufbauer and Jeffrey Schott, "North American Economic Integration: 25 Years Backward and Forward," *Industry Canada Research Publications* (November 1998), 14.

¹⁴ Russell Deigan, *Investing in Canada: The Pursuit and Regulation of Foreign Investment* (Scarborough: Thomson Professional Publishing Canada, 1991), 71.

¹⁵ This point is emphasized in the quote by Du Pont Chairman Ted Newall later in this chapter.

From the multiple streams perspective, the conditions in the problem stream facing the Mulroney government included economic indicators of continually poor economic performance, rising unemployment, falling levels of exports, weak FDI, diminishing industrial competitiveness and increasing US barriers to Canadian exports. These indicators reinforced the feedback that the nationalist policies implemented by the Trudeau government such as FIRA, the NEP, and the Third Option¹⁶ had failed to achieve their objectives of increased growth for Canada with reduced economic dependence on the United States. Such feedback came both from organized interests in business and industry as well as the officials charged with administering the programs. For example, as the deputy head of the Canadian Mission to the European Community and with responsibility for Canada-EC trade relations, from 1979 to 1983, Bill Dymond recalls receiving a litany of complaints about the implications of FIRA for potential investors by European government and private sector representatives.¹⁷

As Kingdon points out, problems are not evident on the basis of indicators alone. Focusing events also provide decision makers with a “push” that calls attention to a problem or elevates a condition to problem status in the minds of politicians.¹⁸ A focusing event related to Canada’s slow or negative growth was the revelation that more

¹⁶ The Trudeau government’s 1972 Third Option strategy sought to diversify Canada’s international economic linkages and reduce its trade dependency on the United States. The strategy was largely abandoned after the major trading partners with whom Canada sought closer relations – Europe and Japan – were not similarly interested. The formal articulation of the Third Option was made by External Affairs Minister Mitchell Sharp in *Canada-US Relations: Options for the Future*, special issue of *International Perspectives* (Ottawa: Department of External Affairs, 1972).

¹⁷ Author’s discussion with Bill Dymond regarding Canadian investment policy, November 19, 2004.

¹⁸ Kingdon, 94-95. Focusing events alone may not be sufficient to elevate a condition to problem status. They are more likely to serve as catalysts by reinforcing pre-existing perceptions of problems that are generated through feedback about the inadequacy of existing programs or policies. See Kingdon, 98.

than 300,000 Canadian manufacturing jobs had been lost in 1981-1982. This prompted widespread demands for government action to remedy the problem.¹⁹

Focusing events related to US protectionism ran in tandem with Congressional outrage over the mounting US trade deficit. By 1985, the US trade deficit with its global trading partners had reached 148.5 billion dollars and the US International Trade Commission claimed that every billion dollar increase in the trade deficit cost the US 25,000 jobs.²⁰ Just as in Canada, US job losses were widely dispersed across the manufacturing sector. However, because the United States represented its own largest consumer market, politicians were seeking ways to keep competition out of the United States through more aggressive trade remedy measures.

Indicators, feedback, and focusing events were continually returning governmental attention to Canada's economic problems. As we will discuss in our coverage of the politics stream, the national mood was restive and demands on the government for new economic solutions were growing. However, the form such change would take, if it occurred at all, would depend on the existence of a viable proposal in the alternative stream and the right conditions in the politics stream. In the following section we will look at what forms of change could be feasibly delivered in the form of viable policy proposals emerging from within the alternative stream.

¹⁹ Statement by Canadian Manufacturers' Association to House of Commons Committee on External Affairs and International Trade, November 1987, transcript reproduced in "Manufacturers Itch to Compete for US Sales," in *Free Trade, Free Canada*, edited by Earle Gray (Woodville, ON: Canadian Speeches, 1988), 36.

²⁰ Hart *et al.* 42-3.

Alternative Stream

In the alternative stream, ideas competing for attention gain popularity through diffusion among actors within the policy community. For ideas competing to be coupled with problems on the decision agenda, their chances for success are improved by technical feasibility, value coherence within the policy community and potential appeal in the politics stream.²¹ Within the alternative stream, tipping points may be identified as markers of where the diffusion of ideas through the alternative stream began to accelerate.²²

In the late Liberal era, feedback from existing programs indicated that nationalist policies were failing to yield desired results, prompting a search in the alternative stream for innovative and feasible options. This thesis previously identified similar dynamics at play in the auto sector in the early sixties. At that time the effective elimination of the Canada-US border for automotive products eventually rose to prominence as a viable option in the alternative stream. Nearly two decades later, given the effectiveness of the Auto Pact, it is not surprising that free trade proposals were once again being considered as contenders in the alternative stream, but this time for the economy as a whole.

A recurring concept among ideas competing for dominance in Canada's economic policy alternative stream was some form of closer engagement with the United States. Other avenues such as market diversification had been evaluated during the Trudeau era and found wanting.²³ The success of the Auto Pact had left the door open for expanded

²¹ Kingdon, 131.

²² Kingdon, 161.

²³ See Third Option discussion in Note 17, this chapter.

free trade but this option was largely overshadowed in the Trudeau government by the overriding current of economic nationalism.²⁴ Similar to the concerns expressed during the Auto Pact process, the members of the Canadian trade policy community in the late seventies and early eighties also recognized that the 'solution' of free trade with the United States, could itself ignite a series of political and social problems related to the recurring preoccupation of Canadians with US domination. Thus, despite the economic arguments that could be made for comprehensive (multi-sector) free trade with Canada's largest trading partner, the political risks involved made it difficult to find a political champion for the issue.²⁵

As has been discussed previously, an idea's success in the alternative stream depends on its coherence with prevailing values in the policy community and also estimates of how well an idea will be received in the politics stream.²⁶ Value acceptability at the bureaucratic level was a problem for the bilateral proposal from the start. There were widespread concerns among trade officials about what closer bilateral economic integration would mean for Canada's longstanding multilateralist trade policy

²⁴ As mentioned in the Auto Pact case study, the option of expanded free trade and investment linkages with the US was endorsed at the 1966 Liberal Convention. However, accounts of this convention suggest that Walter Gordon went along with the proposal under some duress because the issue was juxtaposed against a pet initiative, obtaining financing for Medicare. Thus, it appears that Gordon avoided the contradictory optics of advocating an enormous social spending program while at the same time rejecting a potential revenue generating agreement. After the convention, Pearson repudiated a trade resolution made under similar circumstances calling for a free trade agreement between North America and the Caribbean. By contrast, it is likely that the US initiative was left to languish rather than being officially rejected by the government. See Joseph Wearing, *The L-Shaped Party: The Liberal Party in Canada, 1958-1980* (Toronto: McGraw Hill Ryerson Ltd., 1981), 74-5.

²⁵ Interview with Bill Dymond, January 31, 2001. Except for King's passing interest in free trade, no other political champions for the issue emerged until the 1980s when both Michael Wilson and John Crosbie announced that they were open to consideration of the issue during the 1983 Conservative leadership campaign.

²⁶ Kingdon, 132-3.

especially during a period of international economic upheaval.²⁷ Since the founding of the GATT in 1948, the multilateral rounds of trade negotiations had provided Canada with good opportunities to improve its terms of trade *vis-à-vis* larger and more powerful economies. According to the prevailing wisdom in the bureaucracy, Canada would have more leverage in negotiations with an economic powerhouse such as the United States if it had the support of numbers of other like-minded states.²⁸ Consequently, only a handful of the officials advising the Mulroney government on trade policy were willing to consider bilateralism as a feasible option. Sylvia Ostry was the Deputy Minister of Trade at the beginning of the CUFTA process and not a proponent of bilateral trade.²⁹ She comments on the rationale behind the bilateral-multilateral divisions within the policy community of politicians and specialists in and around government:

There was a very serious question as to whether the multilateral system would survive because of rising protectionism in the United States due to the overvalued dollar. And while I saw a bilateral trade agreement as an insurance policy of sorts, in the event of the failure to launch a multilateral round, I never saw it as anything more than an insurance policy. That was heretical to those who were pushing the bilateral agenda. I used to jokingly call them the Ayatollahs.³⁰

The evaluation and diffusion of ideas are at the core of alternative stream activity. Even before the Conservatives took office, the Liberal government had sought to analyze various indicators related to Canada's trade policy prospects to determine what conditions should be classified as problems amenable to government policy interventions.

²⁷ Interview with Bill Dymond, January 31, 2001.

²⁸ This point is made a number of times in Hart (1989).

²⁹ Ostry would lead the Canadian delegation at the Uruguay Round negotiations.

³⁰ Interview with Sylvia Ostry, February 21, 2001.

In 1975, the Economic Council of Canada produced a report entitled *Looking Outward* that ranked free trade with the United States (alone or in combination with the European Community and/or Japan) among its leading recommendations.³¹ Internally, the Liberals commissioned a trade policy review that was published in September 1983.³² Among other recommendations, the review suggested pursuing some form of free trade negotiations with the United States. However, it was not an idea that won many adherents. It defied the prevailing values that then held sway in the policy community and the Liberals' policy history suggested that free trade would not win much support at the political level. Therefore, consistent with Kingdon's hypothesis that actors in the alternative stream screen recommendations on the basis of coherence with prevailing values and politics, the Canadian officials hedged the language of the report's recommendations for the politics stream, stating: "free trade remains an option but is likely to continue to be offset by considerations of sovereignty."³³

³¹ Economic Council of Canada, *Looking Outward* (Ottawa: 1975). The Economic Council was a think tank financed by the Government of Canada but it was also mandated to provide the government with independent advice.

³² The late Liberal and early Conservative period are marked by extensive analysis of the prospects for bilateral free trade. There were several reports drafted on the basis of this analysis under different titles and shaped for different audiences and purposes. The basic chronology is that a trade policy review was requested by Prime Minister Trudeau in 1981 from the Department of Industry Trade and Commerce. This project was temporarily suspended when government re-organization located trade responsibilities within the new Department of External Affairs and International Trade in 1982. When this review was finally completed, it generated two publications in 1983: *A Review of Canadian Trade Policy* and *Canadian Trade Policy for the 1980s: A Discussion Paper*. Significant analysis also took place in the 1983-85 period to transform the materials collected by the Royal Commission on Economic Union and Development Prospects for Canada into an exhaustive multi-volume report. Materials prepared during this period by trade officials, academic contributors to the Royal Commission, and analysts in other ministries formed the basis for the internal briefing documents consulted by the Conservative government. One such cabinet memo on US relations was redrafted as the public trade policy blueprint, *How to Secure and Enhance Canadian Access to Export Markets*, published in January 1985.

³³ Canada. Department of External Affairs. *A Review of Canadian Trade Policy, A Background Document to Canadian Trade Policy for the 1980s* (Ottawa: Minister of Supply and Services 1983), 239.

During the change in government from Liberal to Progressive Conservative, the trade officials in the bureaucracy held the corporate memory for all of the trade policy alternatives that the government had previously examined or attempted. They also held the responsibility for future recommendations. In the summer of 1984, Derek Burney, Assistant Deputy Minister for US Affairs at the Department of External Affairs, and his officials had prepared a cabinet memorandum on Canada-US relations that had included references to the need to address trade policy problems including the stalled sectoral initiatives. Mulroney reviewed this document in September, leading to a Cabinet request for a more detailed look at bilateral trade policy options. Although lengthy and unfocused at first, the memo became the basis for more formal reports and further analytical work.³⁴ Burney's briefing on the prospects for Canada-US trade set out the following options for consideration by the incoming government included the following:

- 1) To continue with the *status quo* and manage the bulk of Canada-US trade relations through the GATT, supplemented by *ad hoc* bilateral arrangements as required;
- 2) To build on the success of the Auto Pact by negotiating a range of sectoral arrangements with the United States; or
- 3) To negotiate a comprehensive free trade arrangement with the United States.³⁵

The combination of a global economic recession and a crisis of competitiveness within Canadian industry signalled that some combination of external and internal measures was necessary to improve domestic welfare. The trade policy review process

³⁴ Hart *et al.*, 62-65.

³⁵ A fourth alternative, suggesting a framework agreement for consultations that might lead to the negotiation of a free trade agreement represented a highly diluted version of option three.

was pointing decision makers in the direction of a free trade agreement with the United States. As well, analysts outside of government had argued convincingly that secure and expanded access to US markets was good for Canadian exporters.³⁶ While preliminary evaluations were being made under the Mulroney government, more definitive and extensive analysis was being undertaken by the Royal Commission on the Economic Union and Development Prospects for Canada which had been initiated by the Trudeau government in 1983 under the chairmanship of former Liberal minister Donald Macdonald.³⁷ Commission results were expected during the latter half of 1985.

Aside from concerns about striking an economic deal with a much larger neighbour, there were also concerns about the optics of linking the renewal of Canada's international competitiveness to a liberalized trade proposal. Free trade exposed domestic producers to the full glare of international competition. Some would have the capacity to rise to the challenge but those sectors that were unable to compete were likely to disappear from the Canadian economic landscape altogether. In the process of industrial restructuring, jobs would be lost in non-competitive sectors. The shift of resources from non-competitive sectors to newly competitive and growing sectors would generate greater returns overall, but the shift of workers between sectors would have social and economic costs, especially when labour market demand shifted from lower-skilled workers to higher-skilled workers, or required relocation from one part of the country to another.

³⁶ See, for example Anthony Westell, "Economic Integration with the United States," *International Perspectives* (November/December 1984) and Richard G. Lipsey and Murray G. Smith, *Taking the Initiative: Canada's Trade Options in a Turbulent World* (Toronto: CD Howe Institute, 1985).

³⁷ The Commission's original mandate was to research inter-provincial economic barriers but early on it became apparent to Commission members that the real problem lay in Canada-US trade barriers. The results were released in September 1985 after the Conservatives came to power.

At the beginning of the Mulroney term, members of the policy community were grappling with alternatives to nationalist policies, the centrality of US markets for Canadian economic interests, and the compatibility of bilateral options with existing multilateral trade policy. The ideas churning in the policy primeval soup were fraught with contradictions, making it difficult to identify promising and feasible policy options within the mixture. Bilateral free trade offered certain gains but brought with it greater risk of electoral backlash because of employment dislocation and concerns about excessive US influence over the economy. Adding to the complexity of the competition of ideas within the alternative stream were the divisions within the policy community over whether bilateral initiatives would undermine Canada's interests in the multilateral trading system.

The free trade option held a high potential for electoral risk. As such, among the proposals competing for dominance within the alternative stream, there were none that was a clear front-runner. For the free trade option to move ahead, intense reflection and coalition building would have to take place in the politics stream.

Politics Stream

In the politics stream, national mood, organized interests, government turnover and, to a lesser extent, government jurisdictional issues, affect the composition of the stream. Any of these factors has the capacity to propel or block change. In addition, coalition building and policy entrepreneurship in this stream can facilitate the acceptance of certain problems or proposals from the other streams.

The politics stream in the early 1980s was turbulent as a result of a decade of serious economic problems that had been met by various policy attempts at crisis management. Among the most challenging economic policy areas had been bilateral economic relations and, in particular, the effects that the various national policies imposed by both Canada and the United States had on the other state.

In August of 1971 President Richard Nixon announced that the United States was going off the gold standard and was introducing a series of protective measures to prop up the US economy, including a 10 percent import surtax.³⁸ Canadians were shocked by the suddenness and the impartiality of the protectionist actions. In the past, the United States had consulted Canada on economic policies that would affect their “special relationship”. Nevertheless, nationalism in Canadian economic policies in the 1970s was no less prevalent. The Trudeau government also unveiled a series of nationalist economic policies aimed at producing new levels of Canadian autonomy in investment, industrial capacity and market development. FIRA and the NEP have already been mentioned in this chapter. Also included in this policy mix was the creation of the Canada Development Corporation to encourage Canadian ownership in vital areas of the economy, and Petro Canada, a crown corporation charged with developing Canadian presence in the US-dominated oil industry and, together with the NEP, to promote Canadian self-sufficiency in oil. Trudeau’s energy policies sought to achieve broader Canadian economic objectives at the expense of western Canadian producers and

³⁸ One of the reasons for this surtax was the 800 million dollar trade deficit in the auto industry, due in large part to the success of the bilateral Auto Pact.

American buyers. By the early 1980s, Trudeau had little support in western Canada and the US Congress began to call for large-scale retaliation against Canada.

By the late Trudeau era, the national mood had soured toward nationalist, inward-oriented economic policies, casting them as ineffective for dealing with the problems facing the Canadian economy. Some were identified as even contributing to Canada's economic difficulties, such as FIRA which was thought to have a chilling effect on investment in Canada.³⁹ The assessment of Granatstein and Bothwell is that:

Opinions received from the outside by government were not unanimous, but several themes predominated. These were principally a desire to end the isolation of the Canadian economy, with no special access to any larger free trade area; an acceptance that the United States was crucial to an expansion of Canadian trade; and a realization that American non-tariff barriers posed a threat to an expanding Canadian export sector.⁴⁰

At the level of organized interests, pressures were mounting from business constituencies for the government to avoid any more nationalist policy experiments and to get the economic relationship with the United States right.⁴¹ However, the political history of the Liberal party stood in the way of comprehensive free trade. The issue had brought down the Laurier government in 1911 and vexed Mackenzie King to the point where he totally retreated from a proposed agreement in 1948. In the following sections, we see how incremental measures toward free trade were possible under the Liberals but government turnover was required before more overt engagement could be pursued.

³⁹ Deigan, 12.

⁴⁰ J.L. Granatstein and Robert Bothwell, *Pirouette: Pierre Trudeau and Canadian Foreign Policy* (Toronto: University of Toronto Press, 1990), 331-2.

⁴¹ Hart *et al.*, 18-19.

As we saw in the Auto Pact case study, government turnover can act as a precursor to change in the politics stream but when Mulroney took office, conditions in the politics stream were not yet right for coupling to the alternative of comprehensive free trade. There were signals in national mood that the public might be receptive to the idea and early indications from organized interests that change towards more open markets might be received positively. There were considerable political risks accompanying the free trade decision. Turnover played an important role but there would have to be stronger impulses from within the politics stream before the government would open a policy window and take the final steps in committing to a comprehensive agreement.

The situation was precarious for a new government that lacked policymaking experience. Notes veteran public official Arthur Kroeger:

A newly-elected government typically comes to office with a set of aspirations. Upon being sworn in, the government must also begin to wrestle with a number of realities. Some of these will be more or less permanent in nature [...] while others will pertain to particular times.⁴²

The “particular times” facing the novice Conservative government centred on a complex economic problem that demanded an understanding of the constraints and opportunities at both the domestic and international levels. In addition, the new government was interested in attaching itself to a bold economic initiative that would, as a first priority, improve Canadian economic competitiveness internationally and, secondly, build a legacy with which the Tories could distinguish themselves from their predecessors on

⁴² Transcript of “In Praise of Politicians,” a speech by Arthur Kroeger, Deputy Minister of Employment and Immigration, the Empire Club, Toronto, February 8, 1990, 9.

economic issues.⁴³ As evidence of the desire to make its own mark, the Mulroney government dismantled the National Energy Program almost as soon as it took office and, within a year, had replaced FIRA with much less restrictive Investment Canada Act (1985).

The ability and desire of the Mulroney government to work with the Reagan administration was much improved over the previous Trudeau administration. Reagan's Treasury Secretary Donald Regan reported that Trudeau was considered by the White House to be a socialist or, at best, a social democrat.⁴⁴ After so many years in office and so many clashes with the United States over economics, social issues, and defence, the Trudeau administration carried a lot of baggage in terms of Canada-US relations. By contrast, the US Ambassador to Canada at the time, Paul Robinson, observed that Mulroney had no fear of US absorption and "he sees our closeness as an asset."⁴⁵ Mulroney confirmed this assertion in a 1984 speech in New York City, when he announced to the American audience that Canada was "open for business".⁴⁶

In addition to changes in government leadership, another noteworthy influence on the politics stream during this period was a change in institutional jurisdiction. In 1982, a government reorganization initiative shifted formal responsibility for international trade matters from the more protectionist Department of Industry, Trade and Commerce to the

⁴³ The Tories' ambitious plans for jumpstarting the Canadian economy, reducing the national debt and eliminating the deficit are set out in an agenda paper presented to Parliament by incoming Finance Minister, Michael Wilson entitled *A New Direction for Canada: An Agenda for Economic Renewal* (Ottawa: Department of Finance, November, 1984). The paper was originally drafted by Finance officials in May 1984 when the Liberals were still in power.

⁴⁴ Regan, quoted in Granatstein and Bothwell, 328.

⁴⁵ Robinson, quoted in J.L. Granatstein, *Yankee Go Home: Canadians and Anti-Americanism* (Toronto: Harper Collins, 1996), 252.

⁴⁶ Speech by Brian Mulroney to the Economic Club of New York, December 10, 1984.

more internationally-oriented Department of External Affairs.⁴⁷ Although External Affairs was not generally in favour of closer relations with the United States, this move was important because it removed the trade portfolio from the inward-oriented industry department. This served to expand the boundaries of proposal feasibility within the alternative stream and admit more serious consideration of alternatives requiring bilateral cooperation.

In the preceding sections, this chapter has outlined the composition of the problem, alternative and politics streams through the late Trudeau and early Mulroney periods. Now the analysis pulls back somewhat in order to examine how the composition of the streams affected stream coupling under these two Prime Ministers.

Stream Coupling Under Trudeau

Under Trudeau, the Liberals had rejected formal economic integration with the United States on a policy level but *de facto* integration had grown by leaps and bounds through cross-border investment and production linkages during the 1960s and 1970s. The political recognition of mounting economic problems and the exhaustion of nationalist policy solutions helped to create conditions favourable to new types of politics-alternative stream coupling that included some form of bilateral agreement. Small steps toward bilateralism were generated through trial efforts at some alternative stream

⁴⁷ The addition of Trade to External Affairs in 1982 resulted in the formation of the new hybrid Department of External Affairs and International Trade (DEAIT). In 1994, the name was again changed to the Department of Foreign Affairs and International Trade (DFAIT). As of June 2005, the two departments remain provisionally separated, even though Parliament defeated the bills (C-31 and C32) authorizing the split in February 2005.

proposals that had been articulated in the 1983 Trade Policy review. Granatstein and Bothwell recall:

The key decision was to start a trade-policy review. It started slowly – very slowly, but by the time trade policy had been re-examined and reformulated, the earth had, ever so slightly, begun to shift. It shifted between Canada and the United States.⁴⁸

The rise of new ideas in the alternative stream began to gradually re-shape Liberal attitudes. Public demands for action on economic issues helped to open a policy window to admit moderate reforms that had been cautiously coupled with seemingly intractable problems. One such coupling was the decision to explore limited sectoral free trade negotiations with the United States in steel, urban transit industries, agricultural equipment and infomatics.⁴⁹

The formal Canada-US sectoral free trade negotiations began in February 1984 but, within a few months, they encountered serious negotiating problems. Officials involved pointed out that the main difficulty was that negotiators were unable to offer gains in one sector for concessions in others. This ability to counter balance interests in various sectors against one another had been key to the success of the GATT negotiations for progressive tariff reduction. In the absence of cross-sectoral trade-offs, the Canada-US sectoral negotiations continually veered towards impasse. Another reason for difficulty in the sectoral talks was that the bargaining parties' interests in the sectors were asymmetrical – where one side was interested in talking about steel, the other side was interested in talking about urban transit.

⁴⁸ Granatstein and Bothwell, 328.

⁴⁹ Material in this section is based on an interview with Anthony Halliday, the Canadian official in charge of the sectoral initiatives (Ottawa, July 23, 2001).

Through the lens of Druckman's turning points model, the sectoral talks presented an abundance of turning points away from settlement but few counterweight incentives to turn the trajectory of negotiations back towards settlement. Trade officials speculated that some of these difficulties of the sectoral negotiations could be overcome in a comprehensive free trade agreement covering many sectors so that parties could make concessions on issues that were less important to them in order to make gains on issues of greater importance.⁵⁰ However, the possibility that such an agreement would be pursued was still very far off.

In spite of the disappointing progress at the practical level, Liberal trade minister Gerald Regan embraced the sectoral free trade negotiations with more enthusiasm than had been anticipated by most members of the bureaucracy. USTR Bill Brock warmly received the Canadian turnabout because it represented an economic rapprochement for the two countries and was a departure from the protectionist economic policies of recent memory. Although both men had changed jobs by the time the negotiations began, the contribution of both to pushing the notion of free trade up the decision agenda in both Canada and the United States stands as early evidence of policy entrepreneurship in the process.

The extent to which the climate of trade policy decisions was changing within the Liberal government prior to the 1984 election is often overlooked by trade policy analysts,⁵¹ but it shows evidence that changes in the stream configuration that permitted

⁵⁰ Interview with Halliday, July 23, 2001. Lax and Sebenius (33) make this point theoretically, pointing out the possibilities for joint gains if one party's gain is not synonymous with another's loss.

⁵¹ Interview with Michael Hart, February 28, 2003. This point is also underscored in Hart's *A Trading Nation*, Chapter 12.

the negotiation of the CUFTA took root under the Liberal government. Problem-alternative stream coupling led to the rise of new ideas such as the sectoral negotiations and serious investigation of broader alternatives that had been impossible when the decision agenda had been dominated by nationalist alternatives. These new ideas began to take shape in the alternative stream through the trade policy review process and also through the initiation of the Macdonald Commission inquiry. Meanwhile, in the politics stream, the Liberals were able to recognize the gravity of Canada's economic problems and take seriously the public demands for change. However, their capacity to respond with radical departures from the *status quo* was constrained by their policy history, poor relations with the United States and too little certainty about the viability of more radical solutions involving closer formalized trade ties to the United States. Further developments in the politics stream, including electoral turnover, would be required before the CUFTA proposal would rise to prominence on the government's decision agenda.

Stream Coupling Under Mulroney

The multiple streams framework outlines a process where a problem rises to prominence on the government's decision agenda as a result of problem-politics stream coupling and the solution chosen to deal with the problem is the result of a particular configuration of alternative-politics stream coupling. Through the various case study examples in this thesis, it is becoming clear that politics drives the process at the level of problem definition and alternative specification. Actions in the politics stream are responsible for shifting problem definition, moving problems onto decision agendas, and creating the

conditions that lead to the selection of one alternative over another. Domestic coalition building among organized interests in and around government with the help of policy entrepreneurs is a key determinant of alternative selection.

The CUFTA case is distinctive in that the government presented two decisions to the public regarding its intentions on the free trade. The first was a joint preliminary announcement by Prime Minister Mulroney and President Reagan in March of 1985 stating their intent to explore options to create an improved and more secure environment for bilateral trade and investment. The second announcement was made half a year later when the Government of Canada formally declared its intentions to begin free trade negotiations with the United States. From a multiple streams perspective, we can look at the first decision as an instance of politics-problem stream coupling with the government making a commitment to act on the problem of economic competitiveness, and the second decision as one of politics-alternative stream coupling, with the government committing to a particular alternative to deal with the problem it had earlier identified. In the next two sections we will review briefly the dynamics of stream coupling that led to the preliminary, relatively safe decision to consider comprehensive free trade as a response to Canada's economic difficulties and then we will look at how the continuation of coalition building with organized interests – especially with business and the provinces – created the right conditions to permit complete stream coupling and allow the movement through a policy window of the decision to launch the CUFTA negotiations.

Stream Coupling 1: Considering Comprehensive Free Trade

In the problem stream the Mulroney government was faced with a set of troubling economic conditions related to Canada's competitiveness and uncertain relations with its largest trading partner. Domestic and international indicators of declining competitiveness and rising US protectionism, feedback from stakeholders regarding the inadequacy of existing programs, and focusing events such as Canada's manufacturing job loss and the US trade deficit and concomitant rise in trade protectionism were helping to shape the Mulroney government's interpretation of the problem as one of closed and closing markets and weakness in Canadian manufacturing competitiveness.

The propositions that were being honed in the alternative stream to deal with these problems were favouring outward-oriented policies that included some form of free trade arrangement with the United States. These ideas were taking hold among a minority within the policy community as a result of a growing body of research such as the 1983 trade policy review and early indications emanating from the Macdonald Commission process. The liberalized trade options had been the subject of tentative stream coupling started under the Liberal regime but had stopped well short of recommendations for comprehensive free trade.

In the politics stream, government turnover provided the spark for decisive action, shaping problem recognition and the willingness to consider new initiatives. The mindset of the new Prime Minister was more compatible with the US Republican administration. More importantly, Mulroney was anxious to refurbish the Canadian economy and distinguish his government from the Liberal economic interventions of the previous decades. Government turnover allows for the possibility of change in the politics stream

but there are two other important drivers in the politics stream: national mood and organized interests. National mood helps to signal public receptivity to change while organized interests help the government to calculate whether policy change will be worth the political risk. In the following sections we look at the role of these two politics stream factors and their contribution to politics-alternative stream coupling.

In terms of national mood, government decision makers faced a quandary in the early days of Mulroney's term because of public demands for economic policy solutions but uncertainty as to how market integration with the United States would be received by the public.

By 1984-1985, free trade with the Americans was something that was capturing public attention but national mood remained volatile during the Liberal-Conservative transition. As Kingdon points out national mood is "a rather vague presence that people in and around government sense"⁵² based on what people are talking about and what the media is covering. As an economic policy decision, public opinion polling indicated that most Canadians believed they would be better off with free trade with the United States.⁵³ However, as a foreign policy decision, fears of US political domination and cultural influence also permeated public attitudes. At the time, journalist Anthony Westell observed that the Canadian desire to "escape from US influence" arose in large measure

⁵² Kingdon, 148.

⁵³ Results of Gallup and Decima polls cited in Hart *et al.*, 72.

“from fear of absorption by the US and from jealousy of the US wealth, power, and vitality.”⁵⁴

National mood provides a broad indication of what constituents will and will not permit, but the government receives stronger politics stream signals from coalitions of support and organized interests. Because of uncertain support at first, the first steps that the government took toward free trade were tentative. In fact, during the Progressive Conservative leadership campaign of 1983, Mulroney had declared his belief that free trade would affect Canadian sovereignty and “we’ll have none of it.”⁵⁵ However, as a pragmatist, he gradually warmed up to the idea. By the time of the 1984 election campaign, the Tories said they would be in favour of “bilateral discussions with the United States in specific sectors.”⁵⁶

After the election, emerging constituencies of support from organized interests in business and the provinces served to widen the political window of opportunity for the Mulroney government to pursue a comprehensive deal. A vocal element of the business community was pushing for cooperative and practical solutions, but more investigation was required to determine whether these pockets of support represented the broader thinking of other stakeholders. Also, the government needed to ensure that support for a proposed agreement would be durable through a period of bilateral negotiations that could drag on for many months.

⁵⁴ Anthony Westell quoted in Rod McQueen, *Leap of Faith: An abridged version of the Report of the Royal Commission on the Economic Union and Development Prospects for Canada* (Toronto: Cowan & Company, 1985), 51.

⁵⁵ Mulroney quoted in Granatstein (1996), 251.

⁵⁶ Jeffrey Simpson, “The Campaign,” in *The Canadian General Election of 1984*, edited by Alan Frizzell and Anthony Westell (Ottawa: Carleton University Press, 1985), 122.

The provinces also represented a critical area of organized interests with the potential to exert significant influence on the conditions in the politics stream and subsequent stream coupling. Support by the provinces for free trade was important for a number of reasons. The interests of a number of traditionally protected industries would be hurt by a free trade agreement in the short-term and the federal government would be called upon to offset these losses through various transfers to the provinces. Furthermore, strong personal support for Mulroney in Quebec and party support for the Conservatives in the Maritimes and the west had helped to make national reconciliation between the federal and provincial governments a central priority of the Conservative election platform. Although the mechanisms to achieve this reconciliation were articulated in vague terms during the election campaign, economic issues were on the top of everyone's mind. During one campaign speech, Mulroney famously stated: "I will not hesitate to inflict prosperity on Atlantic Canada."⁵⁷

Norman Spector, the new Secretary to Cabinet for Federal-Provincial Relations, argued that the provinces needed not only to be sold on any free trade agreement, but they were vital to selling such an agreement to the Canadian people as well.⁵⁸ At the First Ministers' Conference in Regina in February of 1984, the premiers expressed approval

⁵⁷ Quoted in Graham Fraser, *Playing for Keeps: the Making of the Prime Minister, 1988*. (Toronto: McClelland and Stewart, 1989), 134.

⁵⁸ Quoted in David Barrows and Mark Boudreau, "The Evolving Role of the Provinces in International Trade Negotiations," in *Knocking on the Back Door: Canadian Perspectives on the Political Economy of Freer Trade With the United States*, edited by Allan M. Maslove and Stanley L. Winer. (Montreal: Institute for Research on Public Policy, 1987), 144. For further discussion of the provinces' role in the CUFTA, see *CD Howe Commentary No. 11*, "Closing a Trade Deal: The Provinces' Role," (August 1986).

for the upcoming multilateral GATT negotiations, but cautioned prudence on the pursuit of bilateral free trade negotiations with the Americans.⁵⁹

Despite uncertain national mood and tentative positive impulses in the area of organized interests, the Mulroney government was willing to risk a certain amount of political capital on the issue. In March of 1985, Mulroney and Reagan held the so-called Shamrock Summit in Quebec City where they announced their intention to establish an improved and more secure environment for bilateral trade and investment. Although the framework they presented did not explicitly call for bilateral free trade, the possibility was implied.

What this first phase represents is an example of politics-problem stream coupling. Mulroney had clearly signalled his identification of an economic problem in Canada. The early actions of his government, including the termination of the NEP and FIRA as well as the Shamrock Summit announcement indicated that problem definition was coalescing around unrealized and/or insecure US market access. This set the stage for bilateral market liberalization to be framed as a viable proposal in the alternative stream. However, as the section below outlines, a great deal of coalition building work would have to be done in the politics stream to build up fragile bases of support before politics-alternative stream coupling in support of comprehensive free trade negotiations could take place.

⁵⁹ Philippe Clément, *Trade Negotiations Office: A Case Study in Machinery of Government* (Ottawa: Canadian Center for Management Development, January 1990), 5

Stream Coupling 2: Building Support for Comprehensive Free Trade

If the free trade war was to be won, the largest battlefield was in the area of organized interests. Coalition building in the politics stream was required before the government would fully commit to negotiations on a comprehensive free trade agreement with the Americans. As has been mentioned, the momentum for change in the politics stream was supported by demands from organized interests in the business community and various regions for trade policy reform. This was also facilitated, to some extent, by institutional changes in federal trade policy responsibility.⁶⁰ Although none of these conditions on its own would likely have been sufficient to fundamentally change the direction of government economic policy, the convergence of these factors shifted the calculation of economic logic and political opportunity and created a basis of tentative support for the free trade option.⁶¹ The government's framing of the problem as one of threatened market access had already set the stage for the sort of alternatives that would be deemed credible and appropriate.

Coalition Building with the Private Sector

Even though the government had begun testing the idea of bilateral free trade with various organized interest groups well before March of 1985, coalition building began in earnest with stakeholders across Canada after the Prime Minister's announcement at the Shamrock Summit. Coalition-building would continue through to the formal

⁶⁰ See note 48 (this chapter) regarding the institutional alignment of International Trade with External Affairs.

⁶¹ Thanks to William A. Dymond for clarifying the political-economic interface at work at the opening of the Mulroney era.

announcement of the intention to negotiate in September 1985. It would also extend beyond this date while Canada waited for the US to receive Congressional Fast Track Authority to negotiate (finally granted on April 23, 1986).

Attempts to build and consolidate coalitions proceeded on two fronts – direct contact with larger firms, industry associations and labour unions, and public meetings that were held across the country to collect input from a broad range of stakeholders and small- and medium-sized businesses. Support from Canadian business was far from automatic. In the past, it was opposition from the manufacturing industry in central Canada that had defeated the various historical attempts at free trade that had been led by proponents in the agriculture sector. Now, Canada's continued economic struggle in the aftermath of the 1981 recession was convincing business leaders of the need for more secure access to the US market, despite the hard recognition that certain domestic industries or sectors might be unable to compete on a continental basis and would be lost in the process of economic restructuring.

The business lobby was fragmented at first but mobilized quickly because of the perception that strong government leadership was needed to push the Canadian economy out of the doldrums and that such leadership might be forthcoming from the Conservatives. Business was:

worried about the protectionist threat in the United States, sceptical about early progress in launching a new round of GATT negotiations, and troubled by the absence of any formal dispute resolution mechanism that would take the politics out of the management of the Canada-US economic relationship.”⁶²

⁶² Hart *et al.*, 65-66.

Larger business entities did not take long to rally in support of the idea, particularly in Conservative strongholds in Quebec and the West. As important as their support to the government was their willingness to advocate to others on behalf of the issue. Intensive lobbying efforts were initiated by such organizations as the Business Council on National Issues (BCNI), and the Canadian Chamber of Commerce (CCC). Representing approximately 150 of Canada's largest corporations Tom d'Aquino, president of BCNI, called for the negotiation of an agreement to establish a bilateral dispute settlement mechanism with the United States and lay the groundwork for a broader free trade agreement.⁶³ Over the next few years, D'Aquino repeatedly underlined the linkage between Canada's future economic relations with the United States and its importance to "jobs, growth, and our future prosperity."⁶⁴ A decisive change that served to push the weight of organized interests toward the bilateral initiative came when the Canadian Manufacturers' Association (CMA), one of the hold-outs against the initiative, reversed its anti-free trade position. This was motivated to a great extent by desperation over the massive manufacturing job loss that had accompanied the recession in the early 1980s.⁶⁵

The most vocal critics opposed to free trade were from outside the business community, although, the federal Department for Regional Industrial Expansion claimed to speak on behalf of industries not likely to survive the shock of full free trade.⁶⁶ Outside of government, nationalist groups such as Mel Hurtig's Committee for an

⁶³ Hart *et al.*, 66.

⁶⁴ Thomas D'Aquino "Truck and Trade with the Yankees," in Gray, 57.

⁶⁵ "Manufacturers Itch to Compete for US Sales," 36.

⁶⁶ DRIE did, however, sanction continued attempts at sectoral free trade. Hart *et al.*, 65.

Independent Canada⁶⁷ opposed the deal on the basis of sovereignty concerns and fears of Canada becoming the fifty-first state. Hurtig warned that:

Brian Mulroney's Canada of the future seems little more than a place where our children will have a splendid opportunity of growing up as tenants in a country that should have been their own.⁶⁸

The cultural community also joined the fray. Novelist Margaret Atwood likened Canada seeking free trade with the United States to a threatened beaver biting off its own testicles and handing them to his adversary.⁶⁹ Albeit in less graphic terms, the Peterson government in Ontario led the opposition at the provincial level, citing concerns about free trade on cultural sovereignty, and the harmful effects on unionized workers and women.

Free trade opponents within the cultural community, provincial governments and union leadership were successful in attracting public attention, but this did not translate into a cohesive unit (or units) of organized interests opposed to free trade, nor were their criticisms necessarily representative of national mood overall. For example, even though the leaders of the Canadian Federation of Labour took an official position against free trade, an Environics poll in the mid-1980s showed that most union members were in favour of market opening with the United States.⁷⁰ Similarly the case made by the Ontario government about free trade's effects on women was countered by the Canadian Advisory Council on the Status of Women whose studies drew clear linkages between

⁶⁷ Replaced by the Council of Canadians in 1983.

⁶⁸ Mel Hurtig, *The Betrayal of Canada* (Toronto: Stoddart, 1991), 69.

⁶⁹ Picturesque language notwithstanding, many at the time questioned Atwood's qualifications to make recommendations on economic policy, including fellow novelist Mordecai Richler whose opinion on the initiative was guardedly favourable. Both opinions are found in Gray, 162 and 102-5.

⁷⁰ Patterson in Gray, 160.

free trade and improved opportunities for Canadian women, both as workers and as consumers.⁷¹

Much can be said about the mobilization efforts of the business community, especially the BCNI, the CMA and the CCC, in pressing its case to the government. In fact, the BCNI went as far as to commission a draft text of what a potential Canada-US free trade agreement might look like.⁷² However, the Tories did not sit back and wait for organized interests to come to them; they were equally diligent about soliciting the opinions of stakeholders. Unwilling to rush into the initiative without a clear indication of national mood and the durability of coalitions of support, the government launched an extensive public hearing process that included a 15-city tour by Trade Minister James Kelleher in the spring of 1985.

Minister Kelleher sought input from any Canadian with an interest in the issue. A polished version of the government's internal briefing paper on the prospects of secure and enhanced access to markets was used as a focal point for these consultations.⁷³ Kelleher's multi-city tour was supported by hearings of a special parliamentary committee convened by Joe Clark to listen to a broad range of views on a prospective free trade agreement. These meetings were concluded in July of 1985.⁷⁴ Other consultative mechanisms included the appointment of a Special Coordinator for Market

⁷¹ Katie MacMillan, *Free Trade and Canadian Women: An Opportunity for a Better Future* (Ontario: Canadian Advisory Council on the Status of Women, 1987).

⁷² Prepared by Jock Finlayson and Chris Thomas.

⁷³ *How to Secure and Enhance Canadian Access to Export Markets* (Canada: Ministry of External Affairs, 1985).

⁷⁴ The results of these meetings also informed the treatment of trade issues in the government's Green Paper on trade and defence entitled *Competitiveness and Security: Directions for Canada's International Relations* (Ottawa: Minister of Supply and Services, 1985).

Access Consultations whose mandate was to conduct private discussions with any Canadian with either bilateral or multilateral trade concerns.

Between March and October of 1985, trade officials and politicians worked on a number of fronts to sound out national mood, build and consolidate support, and receive technical input on which to form the basis of negotiating positions – both for the CUFTA and the GATT. Kelleher's advocacy efforts were supported by statements and appearances by Royal Commissioner Donald Macdonald in anticipation of the release of his commission's findings. At the political level, the advocacy efforts of Macdonald (a Liberal) and Kelleher (a Conservative) helped to blunt the force of partisan opposition because both parties could make parentage claims on the initiative. This bipartisan element was recognized as an important resource by Mulroney and his advisors.⁷⁵

Kelleher's approach to cross-country consultations was unprecedented for a Canadian trade issue. Against the advice of bureaucratic advisors, he conducted open door meetings, resisting the traditional approach of closed sessions with pre-selected groups of interested parties.⁷⁶ Although heretical in 1985, it would later become common practice for the Department of International Trade to engage in early and broad-ranging consultation to improve public support for the prospective agreement. Kelleher's pre-CUFTA discussions also set the tone for the very public nature of the rest of the CUFTA process. According to Hart *et al.*, the consultations served to narrow the framing of the problem, from whether free trade with the Americans should be pursued, to what sort of

⁷⁵ Interview with Derek Burney, January 26, 2005.

⁷⁶ Hart *et al.*, 74.

free trade agreement Canada should try to obtain. In this area of policy development, public opinion had moved well ahead of government deliberation:

An overwhelming message came through: to get on with the negotiations and get the best deal possible. In fact, there was a certain measure of impatience. The minister found that the ground, already ploughed by Donald Macdonald and his royal commission and a two-year national debate, was more than ready for planting.⁷⁷

While attitudes were not fully formed on the issue, the mobilization efforts and input from business signalled to the Tories that a massive change of attitude was taking place among business constituents about the future of the Canada-US trade relationship. The widespread dissatisfaction with the *status quo* represented a tipping point in idea diffusion within the alternative stream among members of the policy community. According to Hart, "Things that had been swept under the rug by the Liberals could no longer be tolerated and the business community began making more frequent and more articulate representations to government."⁷⁸

There remained as well business constituents who were opposed to the idea of free trade with the United States. Most often these were smaller, highly protected industries that anticipated difficulties in achieving economies of scale and competing in open markets.⁷⁹ The overriding problem being articulated by Canadian business was how to get out of a Catch-22 situation remarkably similar to the one faced by the auto industry in the early 1960s. As the chairman of DuPont Canada put it at the time:

On the one hand, the tariffs in Canada are no longer high enough to offset the higher costs of producing solely for the Canadian market. On the other

⁷⁷ Hart *et al.*, 76.

⁷⁸ Interview with Michael Hart, February 28, 2003.

⁷⁹ Hart *et al.*, 77.

hand, even modest tariffs into the US can make it difficult, if not impossible, to set up production in Canada to export into that market. When dealing on the location of a new production facility, why locate it on the small market side of the border especially when it's dependent on exports and faces the problems of the Non-Tariff Barriers? We need to be inside those safeguards.⁸⁰

Kelleher's cross-country tour was instrumental in demonstrating to decision makers in the politics stream that there was enough support among organized interests and a sufficiently positive national mood to go ahead with comprehensive free trade. The extended consultation process also helped to precipitate a shift in trade policy formation from the closed, technical exercise it had been during the Auto Pact and GATT negotiations toward a more open, consultative process. Within this more open configuration, it was easier for advocates from the business community such as Tom d'Aquino to operate as policy entrepreneurs, promoting the initiative on behalf of the government and seeking assurances that their interests would be put forward in negotiations, just as opponents to the agreement could also make themselves heard. By consulting with those who had concerns and objections early, the government was able to generate improved support through information, education, and by signalling that the government was taking public concerns seriously.

Coalition Building with the Provinces

Coalition building followed a similar path with the provinces to what it had with business and industry. Official provincial support for a free trade agreement was undeveloped

⁸⁰ Ted Newall, Chairman of Dupont Canada, quoted in Hart *et al.*, 77.

when the Progressive Conservative government took office, but provinces in eastern and western Canada had long been critical of federal economic policies that seemed to sacrifice the interests of other provinces for those of central Canada. As the Macdonald Commission report recorded, the economic logic of the Canadian hinterland in service to the heartland was fraying at the edges:

[O]ur international trade policies impose different regional burdens because they are designed to protect industries in which we have no comparative advantage... altering not only international terms of trade but regional as well.⁸¹

Economic recovery was as much a priority for the provincial governments as it was for the federal government. Just like federal politicians, the provincial politicians were running out of options to support their regional economies in the face of the global and national economic challenges. Therefore, the bilateral free trade option was also gaining ground in the provincial alternative stream. Reisman argues that while the CUFTA might have been an instrument to help Ottawa solve a problem it provided strong opportunities for meeting provincial interests as well:

We were making a deal for plants and workers in provinces, and regions, and cities across the country. Who else was there? Ottawa had no economic interests, strictly speaking. Our job was to try to balance the regional interests to get the best possible deal for the country as a whole.⁸²

Constitutionally, the provincial governments held either shared or full responsibility for a number of the subjects that would likely be covered in a bilateral

⁸¹ Ronald Shearer quoted in Colleen Hamilton and John Whalley, "U.S. Trade Policies and Canadian Interests: Summary of the Proceedings of a Research Symposium," *Canada-United States Free Trade*, edited by John Whalley, Volume 11 of the *Final Report* of the Royal Commission on Economic Union and Development Prospects for Canada (Ottawa, Supply and Services Canada, 1985).

⁸² Interview with Simon Reisman, March 23, 1999.

agreement such as services and government procurement. In addition various provincial market development programs and other economic instruments were subject to classification as non-tariff barriers in international trade agreements and the provinces were justifiably interested in the careful handling of these matters.⁸³

On the basis of these interests, most provincial leaders were willing to consider the free trade proposal but they required certain assurances from the federal government, including that they would have an active role in the preparation and execution of the bilateral negotiating positions. In the years preceding the CUFTA, provincial interest in international trade matters had increased along with growing provincial expertise in the mechanics of trade negotiations. The Tokyo Round of GATT negotiations (1973-1979) had fostered provincial participation in the process because some of the subject matter of that round dealt with issues of provincial responsibility in the area of non-tariff measures.⁸⁴ With growing ownership and expertise in trade policy matters, the provinces were interested in expanding their influence over the direction and content of Canadian trade policy under the Conservative regime.⁸⁵

⁸³ Hart *et al.*, 85 and electronic correspondence with Canadian provincial trade officials (Helmut Mach and Katherine McGuire).

⁸⁴ Participation by the provinces and industry was coordinated through the Continuing Committee on Trade Negotiations (CCTN), which was responsible for maintaining the overall Canadian negotiating position during the Tokyo Round. The CCTN was headed by trade veteran Jake Warren and marked the first time that a senior official in Ottawa had been given full time responsibility for coordinating the domestic responsibilities associated with international trade negotiation. See Gilbert R. Winham, *International Trade and the Tokyo Round Negotiation*, 337-338.

⁸⁵ Although smaller provinces lacked resources for intensive analysis, a number of the provinces actively researched the local implications of the free trade agreement and published their findings to build support for some form of an agreement tailored to suit local interests. See, for example, Prince Edward Island, *Canada-United States Trade Negotiations: Principles and Objectives* (Prince Edward Island: Trade Negotiations Secretariat, 1987); *Adjusting to the Challenge: Report of the Nova Scotia Adjustment Advisory Council* (Nova Scotia: Dept. of Industry, Trade and Technology, 1989); Ontario Trade Review, *Report on the Canada-U.S. Free Trade Agreement* (Ontario: Legislative Assembly. Standing Committee on Finance and Economic Affairs Toronto, 1988); *Canada-United States Free Trade Agreement: a Quebec Viewpoint*

As mentioned previously in this chapter, the provinces signalled an interest in at least considering a bilateral free trade agreement at the First Minister's Conference in February 1984. Shortly afterwards, the four western premiers, led by Premiers Lougheed of Alberta and Bennett of British Columbia, came forward with a stronger statement of support for a bilateral agreement, on the condition that full provincial participation be guaranteed in all aspects of the negotiation.⁸⁶ Although the endorsement of the western provinces was important, because Ontario was opposing the agreement, the critical counterweight to opposition in Central Canada was provided by Quebec. A change of attitude by Premier Bourassa served to turn the tide of provincial support for the CUFTA.⁸⁷

In exchange for their support, the Prime Minister promised the provinces full participation in the negotiation. The provinces interpreted this promise as equivalent to a seat at the negotiating table. In Ottawa it was interpreted as something quite different. Eventually, a compromise was reached whereby the provinces agreed to let the federal negotiators handle the bilateral talks in exchange for extensive and ongoing consultation throughout the process.⁸⁸

(Quebec: *Ministère du commerce extérieur et du développement technologique*, 1988); *Canada-United States Free Trade Agreement: Effects on Alberta* (Alberta: Department of Federal and Intergovernmental Affairs, 1988); and *British Columbia and the Canada/United States Bilateral Trade Negotiations* (British Columbia: Ministry of Economic Development, 1987).

⁸⁶ Hart *et al.*, 84.

⁸⁷ Interview with Derek Burney, January 26, 2005.

⁸⁸ This misunderstanding about provincial participation on the negotiation teams was allowed to continue past the formal announcement of planned negotiations in October 1985 until the First Minister's meeting in Halifax in November. In order to see their regional concerns over fishing, energy, lumber, and so on, addressed at the bilateral table the provinces sought to work out an arrangement, such as a joint secretariat, through which they would be guaranteed some form of representation on the negotiating team, perhaps on a rotating basis. In Halifax, the premiers pressed the Prime Minister to sanction the arrangement but members of Cabinet and officials knew that such a bargain could never be made. At Joe Clark's

Coalition Building Results

Domestic coalition building provided the government with a favourable calculation of risk in the politics stream in order to couple the problems of secure access to the US market and domestic competitiveness with the comprehensive free trade policy alternative. The multiple streams concept of coalition development in the politics stream through the acceleration of bandwagons of support is evident in this process. As the free trade idea gained momentum, more and more actors joined in support of the initiative for fear of being left out. So, for example, the western and Quebec premiers helped to bring other premiers onto the bandwagon, and the efforts of the BCNI and Chamber of Commerce helped persuade the Canadian Manufacturers' Association to adopt a pro-trade position. These efforts were assisted by the policy entrepreneurship of individuals such as Premiers Bourassa, Lougheed and Bennett and also BCNI's Tom d'Aquino.

Kingdon's bandwagon effect aptly describes how momentum in support of the agreement took hold and accelerated among business and provincial stakeholders. The calculation being made within the government was that free trade was an option worthy of consideration, but the decision to go ahead demanded greater consensus building through dissemination of information to the public and systematic evaluation of feedback.

insistence, Reisman was flown to the First Ministers' meeting to "put out the fire" and try to broker an understanding with the premiers. The chief negotiator put forward a convincing case that provincial negotiating status was not a practical option. Even if it were possible for all ten Canadian provinces to reach agreement among themselves as to who would represent them and how, it would open the door to enormous difficulties if all fifty US states tried to become similarly engaged. If this were the case, Reisman argued, the real negotiations would be forced away from the formal negotiating table because of the deadlocks that would occur with so many sub-federal representatives at the table. Events recounted by Reisman, January 13, 1999.

Despite isolated interest among certain industry groups, the government had to do a lot of convincing before the politicians determined that national mood was sufficiently favourable to warrant attempting free trade with the Americans.

The sort of bargaining taking place with stakeholders to build coalitions was bargaining based on the promise of future returns. Business and provincial groups offered their support with the expectation that their concerns and interests would be addressed at the bilateral negotiating table. The no-agreement alternative for business interests and the provinces at the outset was poor but not dire. A return to the nationalist and multilateralist *status quo* meant a return to slowly declining competitiveness and market share. It seemed that sooner or later more drastic action would have to be taken, but the luxury of a little time meant that stakeholders could afford a slightly competitive strategy when bargaining with the government because of the subjective utility of their NAA. An important tactic would be to gauge how serious the Mulroney government was about the bilateral policy and to determine what sort of concessions could be extracted from the government in exchange for support.

The type of concessions that the government was able to offer included federal support for labour market adjustment programs, longer phase-in periods for some sensitive sectors as well as outright exceptions for others. For example, in the area of agriculture, Canada's more competitive exporters in the areas of wheat and processed food products had been lobbying the government to negotiate for better market access internationally, even at the cost of domestic protection, which would likely hurt the interests of less competitive agricultural producers. It remained to be seen whether Canada's food processing industry would be able to outweigh the interests of the

marketing boards, particularly in the dairy sector, and lobby for significant agricultural reforms to create a more competitive climate in agri-food production.⁸⁹

The nature of domestic bargains being made in the run up to the free trade negotiations underscores why multiple streams analysis situates coalition building in the politics stream. Electoral risk gives politicians an interest in balancing optimal outcomes with achievable ones and politicians also control the resources to offer various concessions in exchange for support. By comparison to career bureaucrats, politicians had the most to offer potential coalition members but they also had the most to lose at election time if the agreement failed. Officials interviewed about this process emphasized the importance of leadership in the politics stream. They repeatedly underscored how it is the politician, not the career bureaucrat, who takes the risk on difficult decisions. This belief is reflected in the following quote:

Decisions, even stupid ones, are sacrosanct. Bureaucrats are respectful of [political] legitimacy. Because of the complexity and ambiguities of trading off one set of interests for another, technocrats don't admire governance by other technocrats.⁹⁰

Over a period of about eight months, the Mulroney government was able to generate a considerable body of support in the politics stream through coalition building, advocacy by key business interlocutors, public hearings, and various bargains in the exercise of coalition building. As support from organized interests grew, so too did national mood turn in favour of the issue. A public opinion poll conducted in April of

⁸⁹ A number of agri-food producers in Canada felt that they could compete against US producers for market share, but only if they did not have to pay relatively higher prices for Canadian supply-managed inputs. See Hart *et al.*, 195; Doern and Tomlin, 77-78. These arguments are developed in detail in Ritchie, *Common Ground: Internationalization and Domestic Agricultural Policy in Canada* (MA Research Essay, Carleton University, 1997).

⁹⁰ Interview with Arthur Kroeger, August 10, 2001.

1984 revealed that fully 78 percent of Canadians supported free trade with the United States.⁹¹ The changed composition of the politics stream would have important effects on stream coupling and the shape of the final decision passing through the policy window.

Results of Stream Coupling

Serious economic conditions that had been resistant to prior solutions and the right circumstances in the politics stream helped to frame the problem as one of secure market access to the United States and put the issue on the decision agenda. Subsequently a guarded decision to explore some sort of cooperative trade and investment arrangement with the United States passed through an open policy window.

In the alternative stream, the information and advice provided by the bureaucracy regarding feasible options helped to reinforce the deliberations in the politics stream. This alternative stream analysis was supplemented by extensive consultation by the minister, officials and parliamentarians in order to view the issue from many perspectives. Without these mechanisms, the politics stream would have been shaped by demands for change, and a will to change prompted by government turnover, organized interests and national mood, but it would have lacked the guidance from the alternative stream to give shape to the final policy decision.

⁹¹ Environics Research Group poll reported in Donna Dasko, "Canadian Public Opinion: Sources of Support and Dissent," *The Free Trade Papers*, Duncan Cameron, ed. (Toronto: James Lorimer & Company Publishers, 1986), 27.

Mulroney was strategic in the timing of his final announcement. In a good example of politics and alternative stream coupling, Mulroney waited until the Macdonald Commission results were released before formally committing the government to free trade negotiations. The Macdonald Report unequivocally linked free trade to the restoration of Canadian economic competitiveness, thus providing the issue with greater momentum as the government made its announcement. Also the report's Liberal origins served as a mechanism to lessen partisan divisions.⁹²

Despite strong pockets of support for a free trade agreement, opposition also ran deep. Cabinet ministers and trade policy bureaucrats were far from unanimous in their support for the idea. Responsibility for the decision was very much on the shoulders of the Prime Minister. Although stream coupling allowed for the possibility of the free trade solution to be coupled with a complex economic problem, it was by no means inevitable. Policy entrepreneurship on the part of the Prime Minister was required to push the decision through the policy window. However, in terms of policy entrepreneurship, one must also credit the important role played by Derek Burney himself in recognizing the viability of the comprehensive agreement within the policy review process, allocating staff and resources to its investigation through his role as a senior External Affairs official, and ensuring that the CUFTA option found its way to the Prime Minister's desk as a serious policy alternative.⁹³

⁹² Rod McQueen, *Leap of Faith: An Abridged Version of the Report of the Royal Commission on the Economic Union and Development Prospects for Canada*, (Toronto: Cowan & Company, 1985), 52-53.

⁹³ In March of 1987 Burney was appointed chief of staff for the Prime Minister. As Hart *et al.* (235) point out, Burney's ability to manage Mulroney's schedule in order to focus his attention on a few major issues, and Burney's knowledge of the free trade file helped to keep this issue at the forefront.

Prior to the Tory election, there was no politically acceptable intersection between the comprehensive free trade “solution” and such economic problems as US protectionism, diminished growth, shifting international markets and uncertain domestic competitiveness. The Liberals perceived the risks of free trade with the Americans to be too high. Events and coalition building in the politics stream helped the Conservative government to see things differently. Their dual objectives of consolidating support in the regions, together with demonstrating to the public that they could make effective economic policy predisposed them to take greater risks than their predecessors. The strong analytical evidence, public support, and the desire to distinguish his government from the Liberals through decisive economic policy helped to encourage Mulroney to take a “leap of faith”⁹⁴ and announce his intention to seek a comprehensive free trade agreement with the United States. Letters of commitment were exchanged between Ronald Reagan and Brian Mulroney at the beginning of October 1985.

⁹⁴ Leap of faith, now a slogan for the FTA, originated in an interview given by Royal Commission Chair, Donald Macdonald in the *Globe and Mail*, November 19, 1984.

Chapter 7

The Canada-US Free Trade Negotiations

Introduction

In Chapter 6, this thesis focused on the configuration and coupling of the problem, alternative, and politics streams in order to explain:

- how the Canadian decision to pursue a bilateral free trade agreement came about as a result of problem-politics and alternative-politics stream coupling;
- how the feasibility of such an agreement was worked out in the alternative stream; and
- how the desirability of that agreement was generated through political reflection and coalition building in the politics stream.

The analytic focus shifts in this chapter from whether a free trade agreement *should be* pursued to whether it *could be* negotiated with the Americans and, if so, what shape the final settlement would take. What has been, to this point, a largely domestic policy initiative now takes on a more complex character as the process must now accommodate external US interests.

In this chapter we will look at how the initiative for policy development moved from the domestic streams – which was the dominant site before the decision to seek an agreement was reached – to the external, bilateral level where the formal negotiating rounds take place. As predicted in the multiple streams-synthetic utility framework, we

also see that the initiative moved back to the domestic politics stream whenever guidance or re-evaluation of the original negotiating mandate was required. Because of the enormously complex and protracted nature of the negotiations, it is not possible to cover the development of all CUFTA negotiating subjects in this chapter. However, within the guidelines provided by process tracing, the focus here is on the key subjects that contributed to, or diminished, the likelihood of a final bilateral settlement. Similarly, while the formal negotiations ran from May 21, 1986 to October 4, 1987 and encompassed numerous formal and informal meetings, this chapter divides the process into an initial period of organizational preparation and bilateral agenda setting, bilateral negotiations controlled by negotiators from the bureaucracy, bilateral negotiations controlled by political actors and, finally, a period of domestic implementation and ratification in Canada.

The following section describes how the stage was set for bilateral negotiations during the national and bilateral preparatory period. In it, we review salient organizational elements emanating from the Canada and US domestic politics stream, paying particular attention to jurisdictional issues and leadership (policy entrepreneurship) and how these affected the perception of negotiating authority and agreement importance that each side took to the bilateral negotiating table. Afterwards, we will examine the initial mandate and strategy of the negotiating parties - how these elements were also the products of perceptions and values originating in the politics stream and how they would shape and constrain future bargaining at the bilateral level.

SETTING THE BILATERAL AGENDA

During the CUFTA preparatory period, the essential activities of establishing an organizational structure and determining negotiating mandates and positions had roots in the domestic politics stream of each state. The bilateral agenda setting period lasted from the fall of 1985 until the late spring of 1986 as both sides waited for US Fast Track Authority to be granted.¹ Authority had been delayed in the Senate Finance Committee and, consistent with Kingdon's predictions about the function of policy entrepreneurs in building bandwagons, officials in the US politics stream were required to build coalitions among members of the Finance Committee and also among members of the Trade Subcommittee of the House Ways and Means Committee if the US negotiations with Canada were to go ahead. Meanwhile, in Canada, the Mulroney government had made the free trade issue the centrepiece of its economic and foreign policy. It established the Trade Negotiations Office (TNO) to take charge of the process and installed the TNO in new offices with a large, dedicated staff and every possible resource.

The establishment of the TNO as an independent entity outside of the direct control of any single ministry prevented the CUFTA from getting lost amid other governmental trade priorities. Arthur Kroeger, an observer of the CUFTA process from within the government underscores the necessity of a separate structure for an initiative of the magnitude of the CUFTA:

Smaller [free trade] deals like those with Chile or Israel could be handled in-house, but for the deal with the Americans, an institution had to be

¹ Now called Trade Promotion Authority.

created that had a pipeline into nine or ten departments. It wasn't something any one portfolio minister could handle.²

The strategy of separating the CUFTA from the broader trade ministry is consistent with the observation made by Kingdon that jurisdictional control within the politics stream makes a significant contribution to how an issue is perceived within a government organization, how seriously it will be treated, and the potential policy alternatives that are attached to it.³ By situating the Canadian bilateral negotiating group within its own organization and allocating abundant resources to the endeavour, it was not likely that the bilateral negotiations would fall between the cracks of jurisdictional control or be subordinated to some other issue that had been categorized as a higher priority at the operational level.⁴

The TNO was to be led by a single chief negotiator who would report directly to Cabinet, usually through the Priorities and Planning Cabinet Committee. This committee formed around a core group of ministers including Joe Clark as chair from External Affairs, Pat Carney from Trade, and Michael Wilson from Finance. These ministers handled the major decisions affecting the outcome of the negotiations, often in consultation with Allan Gotlieb, Canada's Ambassador to the United States. After Derek Burney became the Prime Minister's chief of staff in early 1987, he acted as the primary conduit between the Prime Minister's Office and TNO and served as a major problem solver.

² Interview with Arthur Kroeger, August 10, 2001.

³ Kingdon, 156.

⁴ Kingdon, 111.

Mulroney handled the recruitment of his chief negotiator personally. He sought out a handful of candidates; among them was Simon Reisman who had retired from the public service in 1975 and gone on to become a consultant for various Canadian enterprises. On October 15, 1985, Reisman was asked by the Prime Minister to write a brief describing the sort of organization that would be needed to conduct bilateral trade negotiations with the Americans.⁵ Within 48 hours Reisman delivered an eight-page memo outlining how Canada should proceed in the negotiations and setting out a blueprint for an independent trade negotiations apparatus.

Even in these initial notes to the Prime Minister, Reisman recognized that free trade negotiations between national delegations of trade bureaucrats might not be able to reach agreement on politically sensitive subjects. It might eventually be necessary to take the free trade negotiations to the political level to conclude the talks successfully.⁶ Reisman's past experience led him to speculate that an agreement of such complexity and significance might, at certain points, require the direct intervention of senior ministers, and perhaps even the Prime Minister and the President at times.⁷ This speculation would prove to be particularly prescient in the case of the CUFTA.

Reisman recommended that the chief negotiator should be non-partisan and professional, a proven negotiator with an established track record, knowledgeable in trade and international economics and aware of the fine line that exists between bureaucratic logic and political necessity. Not coincidentally, the fit between the chief negotiator's

⁵ Simon Reisman, Memo to Prime Minister Brian Mulroney, October 17, 1985, Simon Reisman Papers.

⁶ Reisman Memo to Mulroney.

⁷ Reisman Memo to Mulroney.

recommended skill set and Reisman's own was nearly perfect. The Prime Minister found the retired official's brief sufficiently persuasive and, on November 8, 1985, Simon Reisman became Ambassador and Chairman of the Preparatory Committee for Trade Negotiations.⁸ The core members of the TNO team who followed included Gordon Ritchie as Reisman's deputy, Andrei Sulzenko as chief of staff, Germain Denis in charge of market access issues, Alan Nymark on federal-provincial matters, Charles Stedman in charge of relations with industry and sectoral analysis, and Konrad von Finckenstein as general legal consul.

Jurisdictional Issues and Policy Entrepreneurship in the Politics Stream

The selection of Reisman as chief negotiator and head of the Trade Negotiations Office would have important implications for the process of domestic coalition building and also for the process and outcome of the bilateral negotiations. From a domestic streams perspective, Reisman's forceful style and detailed vision of how the process should unfold had resonance in the politics stream and, in particular, with the prevailing vision of the Prime Minister. Also, the personal style of the chief negotiator would have implications for national mood and political support by organized interest groups. It has been suggested that Reisman's brash confidence in the ability of Canada to prevail against US dominance helped to persuade domestic actors who were less certain about

⁸ Government of Canada Order in Council 1985-3344. Reisman could not be given the official title of chief negotiator until the US Congress provided the Fast Track Authority necessary to formally begin the negotiations.

the initiative.⁹ Nevertheless, strength and certainty are close cousins of stubbornness and inflexibility and it was all of these characteristics that Reisman would bring to the process. What was functional for bolstering public confidence in the domestic streams did not always translate into bargaining resources at the bilateral negotiating table.

While history counselled caution, Mulroney and Reisman agreed that to have the desired effect, the agreement must be bold and without precedent. The confidence of the Prime Minister imbued Reisman with a strong sense of autonomy in the conduct of the negotiations. Mulroney confirms this assertion: "On the free trade agreement, Simon Reisman had a constituency of one, and that was the Prime Minister. He had my confidence throughout and I think he performed an historic, effective, and important role."¹⁰

By contrast, US negotiating authority appeared uncertain from the Canadian vantage point and, as the negotiations unfolded, US attention would remain fixed on the resolution of existing bilateral irritants rather than a larger vision for the form or function of the agreement.¹¹ Some of the reason for the US ambiguity regarding their objectives in the negotiations might have stemmed from the fact that the initiative was not a high priority on the US commercial policy radar screen. Furthermore, even though Peter Murphy, the chief negotiator for the US side, had been an ambassador to the GATT for four years, his knowledge of Canada was minimal. Fortunately, Murphy's deputy, Bill Merkin, had worked on Canada-US trade issues since the early 1980s and had a much deeper understanding of bilateral trade issues.

⁹ Interview with O.G. Stoner, April 6, 2001.

¹⁰ Interview with Brian Mulroney, June 12, 2001.

¹¹ Interview with Simon Reisman, January 22, 1999.

Murphy's superiors at the USTR did not perceive the job of leading the negotiations with Canada to be a full-time commitment.¹² Although the former USTR, Bill Brock, had made improved US-Canada trade relations a priority, he had been replaced by Clayton Yeutter, whose attentions seemed to lie somewhere other than with the CUFTA. The policy entrepreneurship that Brock had brought to the US politics stream when the decision was made to commit to the bilateral negotiations was now absent. Throughout the course of the negotiations, Murphy maintained other responsibilities at the USTR. At the time, the work on the CUFTA overlapped with preparations for the upcoming GATT round (this was the case in Canada too, of course), and the Americans were taking the offensive in a number of trade remedy actions at the same time.

Lack of leadership within the US administration contrasted sharply with the level of access and input that the Canadian negotiators had to the Prime Minister's Office and Cabinet. From this preparatory phase through to the conclusion of the negotiation, Reisman recalls having at least five face-to-face meetings with Mulroney and more than 15 phone calls during the course of the negotiations.¹³ Even more frequent were Reisman's consultations with Derek Burney, the Prime Minister's Chief of Staff. On the Canadian side, there was no shortage of policy entrepreneurs should advocacy be required; Peter Murphy, on the other hand, appeared to have no personal access to senior staff in the White House or other departments. According to the assessment of Canadian

¹² In a post-mortem article written by US negotiators William Merkin, Ann Hughes, Ralph Johnson and Julius Katz, they identify the problems facing the US team as lack of a full-time staff allocated to the USTR (less than 5 for the US versus nearly 100 for Canada); lack of USTR expertise on all of the issues being negotiated such as services and investment, and Murphy's introspective style. "US-Canada Free Trade Agreement, 1986-1987," *International Negotiation* 1 (1996), 261-2.

¹³ Interview with Simon Reisman, January 22, 1999.

negotiators Reisman and Ritchie, Murphy's access seemed confined to a handful of low-level staff assistants at the congressional level.¹⁴ USTR Yeutter would later deny this but what was apparent to the Canadians from the recurrent US resource, staffing, and access problems was that the CUFTA was not a priority for the Americans.¹⁵

Adding to the difficulties of few policy entrepreneurs or readily accessible political champions, the United States was also hindered by jurisdictional constraints. Since its inception in 1963, the USTR has remained a small organization without a large permanent staff.¹⁶ Murphy was therefore dependent on USTR officials who worked on the bilateral trade file on a part-time basis. The role of the USTR core was to coordinate input from an inter-departmental committee representing line departments such as Commerce, Agriculture, Energy and State for matters falling within their jurisdictions. While these line officials were part of the US negotiating team, they were not under the control of the USTR, making the job of managing US priorities at the bargaining table even more difficult. During the period of bilateral agenda setting and preliminary bilateral discussions, Canada was able to develop a comprehensive set of objectives for the negotiations. On the US side, however, the interdepartmental committee process produced endless 'laundry lists' of trade irritants that Murphy was asked to resolve with

¹⁴ Interview with Simon Reisman, January 22, 1999; See also, Gordon Ritchie, *Wrestling with the Elephant*. (Toronto: Macfarlane Walter and Ross, 1997), 78.

¹⁵ Remarks by Clayton Yeutter, Saturday, September 12, 1998.

¹⁶ The USTR is part of the executive office of the President and is responsible for the interagency coordination of trade policy including overseeing the negotiation of external trade agreements. Although both the institution and its head are informally referred to as the USTR, the person is the United States Trade Representative (a Cabinet position) and the organization is officially the Office of the US Trade Representative. See Steve Dryden, *Trade Warriors: USTR and the American Crusade for Free Trade* (New York: Oxford University Press, 1995).

the Canadians.¹⁷ This condition resonates with our earlier discussion of jurisdictional issues in the politics stream and Kingdon's observation that an issue's movement up the agenda may be slowed down or stopped entirely if it becomes too difficult to deal with multiple government departments on the same issue.¹⁸

The constraints faced by Murphy's team meant that insufficient resources were available for developing the American negotiating positions. It also meant that those line departments that were not convinced that free trade with Canada was a US priority were able to use the *ad hoc* institutional arrangements of the USTR negotiating teams to protect their policy turf more effectively.¹⁹ Also, with Clayton Yeutter seemingly indifferent to the process, the CUFTA lacked an influential political champion within the US government – outside of the President himself. It was known by the Canadians that Reagan was very much in favour of reaching an agreement with Mulroney but this level of influence was largely out of reach on a practical basis for most of the bilateral negotiating process. Mulroney was aware that he could trade on the strength of his relationship with Reagan if necessary but was reluctant to overplay this card.²⁰

Within the politics stream, Reisman had the authorization and resources to negotiate a broad-ranging bilateral agreement. When federal departmental interests were in conflict with what the TNO saw as the interests of the bilateral accord, Reisman could

¹⁷ These observations were made during interviews with Derek Burney (February 21, 2001 and January 26, 2005). Yeutter's statement about "clearing away the underbrush" of bilateral trade irritants was repeated in his remarks at the *10th Anniversary Conference: The U.S.-Canada Free Trade Agreement* at Michigan State University, Lansing, Michigan, Saturday, September 12, 1998.

¹⁸ Kingdon, 156.

¹⁹ Interview with former US trade official Bill Merkin, April 26, 2001; see also Doern and Tomlin, 167.

²⁰ Interview with Brian Mulroney, June 12, 2001.

rely on political support to allow him to prevail in most cases.²¹ By contrast, the US negotiating team came up short on political support and institutional resources on almost all counts. However, as the balance of this chapter shows, the existence of domestic resources does not necessarily translate into the ability to prevail at the bilateral table. Furthermore, it was plain to everyone that the agreement was important to Canadians. This would limit their credibility in attempts to bargain competitively because the United States would not think it likely that the Canadians would put the final settlement at risk. Recalling the discussion of Putnam and Zaharaidis in Chapter 3 with respect to hands-tying strategies in two-level games, it would be difficult for the Canadians to identify for their opponents domestic constraints that would limit their ability to concede to US demands.²²

Mandate

Analytically, the commitment in the Canadian politics stream to the bilateral process signalled that the CUFTA was a high priority on the government's agenda, but how did this strong political authorization affect the negotiating mandate? According to our definition from Chapter 3, the mandate is the product of politics-alternative stream coupling. It represents, in general terms, the principles and objectives being sought from the final agreement and, in specific terms, the mandate delineates the range of acceptable outcomes (domestically acceptable win set) that negotiators may seek. Bargaining

²¹ According to Reisman, the Prime Minister did not ever ask him to give way on an issue, although he was, at times, asked to consult with domestic opponents to try to find mutually satisfactory solutions.

²² Zaharaidis (2003), 4.

positions are developed on the basis of interests that are then formalized through a ministerial mandate. During the negotiation process, officials must return to the ministerial level to approve any substantive changes to their mandate.

In the Auto Pact, we identified a few conditions as central to the Canadian negotiating mandate. What, if any, were the critical issues for Canada in the CUFTA? Canada went to the table seeking a comprehensive free trade agreement that would include national treatment in the areas of goods, services, investment, and intellectual property. It also sought to scale back the scope and application of US trade remedy measures²³ and gain some access to the lucrative American government procurement market. Another issue of importance to the Canada was the establishment of a binding dispute settlement mechanism that would curb unilateral action on both sides of the border.²⁴ Among these priorities, limiting American use of trade remedies stood at the top of the list. In large measure this was related to problem definition during the decision making process. This thesis has identified industrial restructuring as important to Canada's long term competitiveness but it would come at the cost of industry losses and political consequences. The possibility of secure access to the United States market was also worthwhile but carried some risk. As Tomlin argues, however, "The prospect of reducing protectionist harassment in Canada's dominant trade market made that risk worthwhile."²⁵ Consequently, progress on trade remedies became a central element of the

²³ Trade remedies or contingency protection refer to measures such as antidumping and countervailing duties and safeguards. These are imposed by states in response to dumping and subsidies that have market-distorting effects and that cause or threaten injury to domestic competition. The Canadians sought to reduce the risks inherent in the US contingency protection system and limit the ability of Congress to initiate legislative changes designed to reduce imports. Hart *et al.*, 94.

²⁴ Hart *et al.*, 98.

²⁵ Tomlin (2001), 56

Canadian mandate and became established as a pre-condition for agreement success in the minds of Canadians.

The US mandate, much like the US negotiating authority, was not easy for the Canadians to comprehend during the preliminary talks. It seemed to focus on clearing away existing bilateral trade irritants without much regard for the shape of the broader agreement. Overall, the US mandate (or lack thereof) seemed constrained by a fear of upsetting Congress on any issue. Early in the process Reisman had a meeting with deputy USTR Michael Smith during which the TNO chief provided a lengthy description of the sort of broad, comprehensive agreement that the Canadian government was seeking. After the briefing, however, Smith responded by shaking his head and asking Reisman, "Have you ever heard of Congress?"²⁶ Smith indicated to Reisman that he was very pessimistic about the success of a comprehensive free trade agreement within the current climate of protectionism within the US Congress.²⁷

Related to the range of subjects that could be negotiated by the national negotiating teams is the procedural issue of what constituted settlement. April 10, 1986 marked the first face-to-face meeting between Reisman, Ritchie, Yeutter and Murphy in Washington. In these pre-negotiation discussions, participants on both sides gave their assent to the primary settlement principle that nothing would be agreed until everything was agreed. The Canadians interpreted this to mean that provisional conclusions *could* be reached on all but the most sensitive issues, but that the conclusions in these sectors

²⁶ Interview with Simon Reisman, December 11, 1998.

²⁷ The constraints exerted by Congress on bilateral trade cooperation, both here and in the Auto Pact case study bring to mind the dynamics of Putnam's two-level games described in Chapter 2 where domestic hand tying strategies are used to try to force concessions from negotiating partners at the bilateral level.

would not be binding until the sensitive issues had been resolved. By contrast, the interpretation that Murphy maintained throughout the negotiations was that even provisional conclusions would not be accepted until the entire package was satisfactory.²⁸

The disposition of Congress and the greater influence of the legislature on executive decision making in the United States²⁹ would affect the pace and progress of the negotiations from the outset. The US negotiating mandate comes in the form of a general grant of authority that provides officials with a relatively free hand to formulate their bargaining strategy but this freedom is continually constrained by the influence of interest groups channelled through like-minded congressional representatives. As Winham observes:

Ultimately, the greatest constraint on US negotiators is Congress... [This constraint is] political, uncertain and especially felt at the end of negotiations... when Congress must decide whether to accept or reject a deal.³⁰

By contrast, the fusion of executive and legislative powers in Canada means that the most difficult battles tend to occur prior to the government making a decision to act, especially with a majority in Parliament such as the Mulroney government enjoyed. After the October 1985 decision, the Canadian negotiators had a fairly wide berth for action during the negotiations, while the Americans were more constrained by the awareness of Congress looking over their shoulders. The US concerns were not unwarranted. On May 22, 1986, the day the negotiations were formally launched, a congressionally-approved 35 percent safeguard duty on shakes and shingles was imposed against Canada. This

²⁸ Interview with Simon Reisman, January 13, 1999.

²⁹ The contrast between US and Canada decision making structures is also discussed in Chapter 2.

³⁰ Gilbert R. Winham, *The Evolution of International Trade Agreements*, (Toronto: University of Toronto Press, 1992), 88.

action directly countered the agreement made by Reagan and Mulroney at the Shamrock Summit to freeze protectionist actions during the course of the negotiations.

To summarize the state of the negotiation mandates during the preparatory phase of the bilateral negotiations, the Canadian mandate centred on progress in trade remedies and an approach based on incremental progress. The United States, by contrast, sought to eradicate a range of bilateral irritants on the basis of an all-or-nothing settlement principle.

Strategy

Early bilateral meetings during the pre-negotiation period provide an opportunity to devise strategies to maximize the strengths and minimize the weaknesses of one's own side, while working toward the opposite outcome for the other party. Even at this early stage it was clear that the US insistence on the all-or-nothing settlement format would prevent a gradual build-up of small successes that could soften US attitudes on agreement acceptance. This approach threatened to drag the pace of negotiations to a crawl. The casual attitude of the United States also signalled the US belief that they had a relatively good no-agreement alternative – if the CUFTA failed, they could return to their pre-existing trade relationship with Canada. As we noted in Chapter 1, even though Canada and the US are each other's largest trading partner, the United States is buffered by a very large internal market. Consequently, the prospect of full national treatment for American goods and services in Canada was not seen as much of a prize by US officials, especially

if the benefit carried a disproportionately high political price tag in Congress.³¹ Thus, with a good perceived NAA, the United States would be inclined to adopt a competitive bargaining strategy against the Canadians.

In terms of Canada's strategy, we know that in the preliminary stages, domestic attention to the issue in the politics stream, as well as the tone of bilateral meetings, signalled to the United States that this was a very important agreement to Canada. In material terms, the failure of the CUFTA would mean a return to a slow decline in terms of international competitiveness and vulnerability to US trade protectionism and other global barriers. While problematic, this was actually much improved over Canada's NAA in the Auto Pact case study. There, the failure to reach an agreement would have buried Canada under US automotive CVDs and marked the beginning of the end for Canadian auto production. In political terms, however, the Mulroney government had pinned Canada's economic turnaround on a few key initiatives of which the CUFTA was the centrepiece.³² Since NAA risk is interpreted within the politics stream and transmitted to bilateral negotiators through mandate and strategy, for the purposes of this analysis we can interpret the NAA for Canada as poor even though a return to the *status quo* of bilateral trade relations would not have been dire in purely economic terms.³³ However, with a poor NAA from the political viewpoint, Canadian negotiators would be disposed to follow a fairly cooperative strategy rather than risk domestic political fallout if bilateral negotiations failed.

³¹ See Ritchie, 72; see also Hart *et al.*, 161.

³² Also included here would be rationalization of FDI policies, the repeal of the Manufacturers' Sales Tax, and the GST.

³³ In trade policy terms, the NAA for Canada in the absence of a bilateral agreement would be whatever multilateral arrangements would emerge from the Uruguay Round underway at the time.

Related to both mandate and strategy is the initial shape of the CUFTA win sets. We can speculate that the zone of potential agreement between Canada and the United States during the early stages of the CUFTA negotiations was small or even non-existent during the preliminary stages. Although the reasons for this assumption require knowledge of how the negotiations would later play out following the preliminary phase currently under discussion, it is useful to have a sense from the outset of the relative magnitude of both win sets and the likelihood that there existed no zone of potential agreement when negotiators met for the first time.

Because the agreement was important to Canada, we can infer that domestic constituents might have been willing to accept a greater range of negotiated settlements and therefore Canada would have a relatively larger win set (as shown below in Figure 7). Because the agreement was not particularly important to the United States, it is logical that there was a more limited range of potential settlements that negotiators would be willing to bring home to domestic constituents. This is indicated by the relatively smaller size of the US win set. We cannot know for sure whether or not there was a zone of possible agreement (as would be indicated by an overlapping win set) but we do know that the US was not willing to make any commitments that would attract negative attention in Congress. Similarly, despite Canada's considerable interest in the CUFTA, Reisman was not prepared to make a deal at any price and even in this early stages, an acceptable deal for Canada was linked to progress on trade remedies.³⁴

Projecting forward, the next section of this chapter will describe how the bilateral teams continued through months of non-productive negotiations, during which it was all

³⁴ This point was made clear by Reisman several times during interviews for this thesis.

but impossible to get agreement in any issue area. Therefore, it is a fair speculation that during these initial stages of bargaining, there actually existed no zone of bilateral agreement.

FIGURE 7: CANADA-US WIN SET – CUFTA INITIAL ROUNDS

** National win sets do not likely overlap in these early stages and no zone of agreement is shown.

Summary

This section has outlined the preliminary stages of preparation for negotiations and the bilateral discussions that took place prior to the initiation of formal rounds. During this period both sides developed their respective bargaining positions and negotiating apparatus in response to the impulses and constraints received from the domestic streams. The interaction of these national positions would create the bilateral agenda to be pursued during formal negotiating rounds.

It has been argued that jurisdictional limitations and lack of US leadership in the politics stream contributed to uncertain negotiating authority, and fragmented negotiating positions on the US side. Nevertheless, the CUFTA was a relatively less important agreement for the United States and this meant that they could adopt a relatively

competitive negotiating strategy that would require them to give very little to the Canadians during the formal rounds.

By contrast, jurisdictional re-organization enabled Canada to prepare for the negotiations away from the more protectionist influences of the Department of Industry. As well, policy entrepreneurship by the Prime Minister and his Chief of Staff translated into strong negotiating authority and institutional autonomy for the TNO. Nevertheless, the importance of the agreement to the government also put Canada in a relatively weak bargaining position. The Mulroney government's investment of its political credibility into the CUFTA meant that, from the political perspective, its alternative to an agreement was poor. Strategically, therefore, the Canadian negotiators would be prone toward more cooperative strategies and concessions to US demands.

The complete mismatch between the two negotiators and the differing interpretations of the all-or-nothing settlement rule did not bode well for future progress in the talks. However, the most important stumbling block was the asymmetry of agreement importance between the two states.³⁵ This greater importance for Canada meant that Canada remained the *demandeur* of the agreement and the level of public scrutiny on the Canadian negotiators was high. Canada's ambitious mandate with trade remedies at the centre also provided the Canadian public with a yard-stick with which to measure success or failure. By contrast, a less ambitious mandate for the United States meant that any forward motion could be justified to domestic constituents as success. Differences in agreement importance also meant that US officials were reluctant to bring

³⁵ Even the usually reticent Murphy admitted that the US was not paying sufficient attention to the bilateral agreement in Dryden, 340-3.

trade liberalization commitments to the attention of a protectionist Congress, despite the rhetoric being offered by the White House about the US commitment to market opening.

In the next section we will see how these differences and the conditions that had been established in the preliminary stages would manifest themselves during the formal negotiating rounds.

BUREAUCRATIC NEGOTIATING ROUNDS

Structure

The negotiating rounds led by the bureaucratic teams ran from May 21, 1986 to September 23, 1987, lasting more than 16 months overall. The formal rounds of negotiations between national negotiating teams took the form of monthly plenary sessions, each lasting for a day or two in either Ottawa or Washington. The major sectoral components for the agreement were discussed at the plenaries and, once a work plan was set out, issue area working groups were called upon to negotiate the details.³⁶

The first plenary session between Reisman and Murphy began on May 21, 1986. The scope of the talks ahead of them was massive, covering the largest volume of trade of any two countries in the world. The final agreement would eventually cover the most ambitious list of subjects ever negotiated in a bilateral trade agreement, ranging from traditional border measures to areas such as trade in services and investment that had never before been covered in a trade agreement.

³⁶ Hart *et al.*, 160.

Because the United States had not been able to deploy equivalent research and preparatory resources for the complex array of negotiating subjects, Canada controlled the agenda on most issues, at least at the beginning of the negotiations. Reisman's team would set out the positions for both sides and, in the absence of US position documents, the negotiators would work from the Canadian interpretation of how the terms of a potential agreement should be framed for that issue. Recalls one US negotiator:

To [the Canadians'] credit, they did most things in a very fair manner so it was attractive to both sides. They didn't just come in and hand over the Canadian position and it would be something we wouldn't agree to in a million years. They tried to take our interests into account. I won't say we agreed with everything in it, but they tried to do a fair job.³⁷

Bargaining on Central Issues

During the negotiations, every attempt was made by Canada to make progress on its most important issues: trade remedies, and also increased access to the lucrative US government procurement market. Murphy responded to these requests either by delaying discussions and requesting more time to consider these sensitive issues, or by deferring discussions, saying that both sides needed to clear away the existing bilateral irritants that had been brought to Murphy's attention by Congress. These were trivial issues but they took up a lot of the negotiators' time and energy. For example, at Murphy's insistence, several hours were spent at one meeting debating the maximum number of knotholes that would be permitted in a sheet of plywood.

US stalling on Canada's important issues may have represented a ploy to see what Canada was willing to put on the table, albeit a risky one. Doern and Tomlin assert that

³⁷ Interview with Bill Merkin, April 26, 2001.

"the Americans would never be ready to discuss the two issues, since they had no mandate to negotiate agreements on either procurement or trade remedies."³⁸ An understanding existed among the US negotiators that movement on trade remedies was a non-starter because it would invoke guaranteed opposition from Congress.³⁹

Although procurement was eventually put on the table by the United States, Canada continued to hammer away at trade remedies through months of negotiations. The Canadian team proposed a joint subsidies code to distinguish permissible subsidies from prohibited subsidies. The Americans responded if the Canadians were troubled by the countervailing duties that the US imposed on subsidizers, they could solve the problem at the source by eliminating all Canadian subsidies. Reisman, of course, was infuriated by this line of argument and offered Murphy one of many lectures on the nature of the Canadian political economy and the necessity of maintaining certain programs in the name of regional development and national interest.⁴⁰

Reisman recognized early that the Americans' most serious interest lay in liberalized terms for investment and he attempted to leverage that interest into progress in other areas. Whenever the United States requested investment discussions, Reisman countered that the issue was not contained in the original bilateral terms of reference and that expansion of his mandate would be impossible without a comprehensive agreement that included trade remedies. Reisman's position was that he would "be damned if we

³⁸ Doern and Tomlin, 154.

³⁹ Interview with Chip Roh, April 27, 2001.

⁴⁰ Interview with Simon Reisman, January 13, 1999.

were going to talk about investment – a subject very dear to their hearts - before we had made gains in other areas.”⁴¹

Another area where Canada could buy concessions across sectors was in energy because the United States wanted to avoid future discriminatory actions similar to what had occurred through Canada’s National Energy Program. In order to motivate the US to deal in other areas, therefore, Reisman resisted removing energy from the plenary table and handing it to the working groups for as long as possible. However, energy could not be withheld for very long as there was also pressure from the Canadian oil industry to come up with a deal in that sector.⁴²

Although the CUFTA encompassed numerous issue areas, Canadian interest in trade remedies and, to a lesser degree, US interest in investment, became the main sticking points in the negotiating rounds spanning nearly seventeen months. As the months of fruitless negotiations stretched past the first year, the United States finally relented and offered to put together a subsidies code that Congress might accept. However, because the permissible subsidy levels were so small and because the code considered only Canadian subsidies, not American ones, Reisman denounced the proposal as “derisory” and rejected it out of hand.

For more than a year Reisman managed to keep the investment issue out of the reach of the Americans. He finally agreed to receive a proposal on the subject but, upon reading it, he declared the terms for US investors to be so generous as to offer a “draft

⁴¹ Interview with Simon Reisman, December 1, 1998.

⁴² Interview with Simon Reisman, December 1, 1998.

license to take over the country.”⁴³ The proposal was rejected and returned to Treasury official Robert Cornell. Murphy continued to emphasize the importance of investment to the progress of the negotiations, while Canada held out on the issue, awaiting some movement on trade remedies and other issues of importance to Canada.⁴⁴

Without progress on the priority issues that had been targeted, impasse seemed to be closing in. Canada’s only hope was that additional US interest in the negotiations and willingness to cooperate could be generated through some form of Canadian cross-border intervention or policy entrepreneurship in the US domestic politics stream.

Bargaining Analysis

An accurate estimate of agreement importance to each side is key to understanding negotiating strategy during the bureaucratic rounds. With Canada, the picture that emerges from interviews and secondary analysis is that the high political priority accorded the agreement made Canada favour a cooperative strategy because the alternative to a negotiated settlement would reflect poorly on the Mulroney government. This is borne out in the following review of Canadian negotiating behaviour during the bureaucratic rounds.

When the United States arrived at the table ill-prepared and lacking adequate research about negotiating subjects, Canada provided a fair representation of the positions

⁴³ Hart *et al.*, 236.

⁴⁴ The issue would remain on the back burner until early 1987 when Treasury Secretary Baker brought pressure to bear at the political level in Ottawa. Baker’s intervention on this issue coincided with visits to Ottawa by Baker and Vice-President Bush to reaffirm the political importance of the CUFTA to the US administration. Doern and Tomlin, 162; Hart *et al.*, 218-20.

for both sides. When the United States sought to clear the field of trade irritants, Canada complied. When the United States requested more time to consider sensitive issues, Canada agreed to move on and return to these issues later. This sort of cooperative behaviour is captured theoretically in synthetic utility models as attempts to create value, i.e. to grow the size of the pie and increase the common value so that each side gets what it wants. From an economic viewpoint, value creation is made possible by the exploitation of differences in relative valuation leading to the possibility of gains from exchange.⁴⁵

Value-creating bargaining is useful during negotiations in new issue areas where there are no existing templates and joint problem solving is required to deal with shared challenges. Such new solutions are less likely to be revealed through a competitive bargaining environment where withholding information and delaying concessions is the norm. Through its attempts to reach agreement on non-contentious issues and increase the joint value of the agreement, Canada was using classic value creating tactics.⁴⁶ These however, were hindered by the Americans' competitive responses and their insistence that nothing was agreed until everything was agreed.

From the Canadian perspective, the lack of US cooperation put the whole agreement in jeopardy. As the lessons of the earlier sectoral negotiations had shown, when only a limited number of sectors are being considered, it is difficult to make gains through cross-sectoral trade offs or to benefit from differences in relative valuation of outcomes. In order for desired gains from exchange to be realized, there must be enough

⁴⁵ Lax and Sebenius (1986), 90-1. See also Odell (2000), 33.

⁴⁶ Odell 33-34, in reference to Walton and McKersie's 1965 integrative (value creating) model.

linkages that can realistically be made across interest areas: "The more the items at stake can be divided into goods valued more by one party than they cost to the first, the greater the chances of a successful outcome."⁴⁷ Unfortunately, the bureaucratic rounds show that Canada's cooperative strategy failed to translate into productive, value creating bargaining.

Interspersed with Canada's generally cooperative strategies were similarly disappointing attempts at competitive bargaining. Even though we see Canada attempting to hold out on certain US priorities such as investment, we do not see the US softening its position or becoming more cooperative on trade remedies, Canada's most important issue, in order to get what it wants.

What do we know about the Americans' perception of their no-agreement alternative through the bureaucrat-led rounds? This element is harder to read, although the NAA appeared to remain consistent from the preliminary stages through the formal rounds at the bureaucratic level. By all accounts, even those of his deputy, Peter Murphy was an enigma, so his perception of events is harder to read:

Part of Peter's problem, if it was a problem, was that he was constantly negotiating – whether it was with the Canadian side or with his own side—so he was always couching things in terms that gave him leeway. That was frustrating for the Canadians because they were never sure where he was coming from.⁴⁸

An economic analysis of relative trade dependence suggests that the bilateral agreement was not that important to the United States but the point has also been made

⁴⁷ George Homans, cited in Lax and Sebenius (1986), 93.

⁴⁸ Interview with Bill Merkin, April 26, 2001.

that the relationship with Mulroney and Canada was important to Reagan.⁴⁹ Murphy's withholding (competitive) bargaining behaviour has been explained by Doern and Tomlin⁵⁰ as motivated by the desire to commit to very little at the bureaucratic level to allow maximum leeway for when the negotiations moved to the political level. US negotiators similarly argue that Murphy was simply trying to buy time during one of the most protectionist phases in Congress since the 1930s.⁵¹ By contrast a number of Canadian negotiators who faced Murphy at the negotiating table support the claim that Murphy just did not know what he was doing most of the time and had little political authority to act.⁵² Although Murphy's delays may well have been strategic, prolonging the bureaucratic negotiations nearly to the Fast Track deadline cast doubt on the capability of political negotiators to pull together any deal in such an impossibly short time.

Murphy's lack of responsiveness to Canadian appeals and demands translated into a competitive strategy for the US negotiating side. There seemed to be a likelihood that the agreement could take on renewed importance to the USTR team if the White House became actively engaged in the process but, during the bureaucratic rounds, the attention of the US executive was elsewhere.

⁴⁹ The importance of the relationship and Reagan's regard for Mulroney was emphasized during interviews for this thesis by a number of people including Derek Burney, Bill Merkin, and Brian Mulroney himself.

⁵⁰ Doern and Tomlin, 278-9.

⁵¹ Hart *et al.*, 242; supported by interview comments with US negotiators Merkin and Roh.

⁵² This is the argument made by Reisman, Ritchie, and Ostry (who had worked with Murphy at the GATT) among others. The real nature of Murphy's strategy remains a puzzle due to his unfortunate death in 1994. Certainly the Doern and Tomlin thesis is supported by a number of instances where Reisman did become frustrated and offered concessions to try to force movement out of the American. Murphy's ill-health with brain cancer during the negotiations may have further complicated matters.

In summary, the differences in agreement importance supported the Canadian logic of trying to draw the US focus away from irritants toward a broad-reaching framework upon which negotiated settlements on various issues could be built. However, with limited interest in the agreement during the opening rounds, no amount of Canadian persuasion was able to extend the US focus beyond the laundry-list approach.⁵³ By the end of the course of bureaucratic rounds, Reisman had attempted both cooperative strategies of joint problem solving and conciliation, as well as competitive strategies of refusing to yield on the inclusion of investment and linking US interests in investment with Canadian interests in trade remedies. Neither strategy was effective. As the next section discusses, during and between bureaucratic rounds, activities were undertaken in Canada's domestic politics stream to attempt to build coalitions with US decision makers to encourage more productive CUFTA bargaining. In addition, cross-border coalition building continued in the domestic politics stream in order to maintain support for the agreement at home.

Domestic Assessment

(1) Politics Stream – Cross Border Advocacy

The intransigence of the US side created a serious problem for the Canadians. President Reagan had given his approval to undertake the negotiations with Canada but, in the early stages, his support did not translate into effective mechanisms for US bureaucratic action

⁵³ Ten years later USTR Yeutter would continue to defend the US approach of “clearing away the underbrush” in order to facilitate discussion of larger issues later on Statement by Clayton Yeutter, Lansing, Michigan, September 12, 1998.

and a war of attrition was being fought at the formal bargaining table. Many of the problems affecting the negotiations stemmed from the bottom-up nature of US decision making. The USTR was used to acting on the basis of complaints originating in Congress, and at the early stages of the negotiation, the impulses out of Congress for a deal with Canada were tentative. Moreover, because Canadians have no power in congressional elections, there was little interest among representatives to encourage US compromise positions (jumping on a bandwagon prematurely, in the multiple streams sense) until the distribution of interests and incentives for individual members became clearer.⁵⁴ If the US perception of the importance of the agreement was going to change, it would demand persistent advocacy by Canadian policy entrepreneurs to build coalitions in the United States. In such undertakings, however, timing is essential. Politicians do not act until they are sure that the bandwagon is rolling in a favourable direction and that the time is right for compromise.⁵⁵

Here again, there are parallels to the Auto Pact process, although the roles of the states are reversed. In the Auto Pact, the Canadians were the reluctant partners and the US attempted to resort to cross-border advocacy in the Canadian politics stream to build support for a bilateral agreement. In the CUFTA, it was American reluctance to take the negotiations seriously that motivated Canadian cross-border advocacy into the US politics stream.

⁵⁴ This section draws extensively on conversations with Allan Gotlieb and Roy MacLaren, a former ambassador to the US and a former trade minister respectively, both of whom have broadly developed understandings of the US political system. Gotlieb also provides a very good explanation of the mechanisms of US political decision making in his book, *I'll Be With You in a Minute, Mr. Ambassador* (Toronto: University of Toronto Press, 1991).

⁵⁵ Kingdon, 161.

When events at the bilateral table began to move toward impasse, the Canadian negotiators returned to consult with their political masters. The analytical model set out in Chapter 3 predicts that if an impasse occurs, negotiators return to the domestic stream for guidance on mandate or strategy. In this case, the Canadian team returned home for assistance to solve a problem that could not be solved at the bilateral table. This is not unlike the Auto Pact case where the inclusion of the auto industry – through domestic-level negotiations – helped to solve a problem that had brought bilateral negotiations to an impasse. In the CUFTA case, the Canadian negotiators sought assistance to get the United States to behave more cooperatively in the negotiations. This, according to the multiple streams-synthetic utility framework, would require persuasion or external events that would somehow worsen the US perception of its no-agreement alternative.

Druckman's turning points model, which guides our understanding of bargaining progress, asserts that progress in negotiation halts when an impasse is reached but can be restarted as a result of some new domestic decision or external influence. Certain events (such as politics stream bargaining and cross-border advocacy) may be absorbed from outside the talks to change the relative evaluations of the terms on the negotiating table.⁵⁶

In the Auto Pact case, US cross border advocacy was successful only after the Canadians recognized that there was a crisis (the expanded application of CVDs) that could seriously affect their interests. This decreased the subjective utility of their NAA and disposed them to more cooperative bargaining with the United States. Similarly, joint problem solving on auto industry inclusion was only possible with both parties inclined toward cooperative bargaining because both saw the subjective utility of their respective

⁵⁶ Druckman (2001), 519.

NAAAs as poor. In the final days of the bureaucratic rounds of the CUFTA, Canada's initial cross border advocacy in the US politics stream provoked little response because only one side, Canada, was interpreting the lack of progress in the negotiations as a serious problem. Druckman predicts that during a crisis period, the bargaining behaviour of both teams hardens, but after the crisis passes, both sides can become more flexible.⁵⁷ However, with only Canada identifying an incipient crisis, there was no reason for the United States to become cooperative in response to a problem they did not recognize.

As negotiations neared stalemate the Canadian Ambassador in Washington, Allan Gotlieb, lobbied key players on Capitol Hill. Cabinet members and Prime Minister Mulroney attempted interventions of their own with their counterparts in the White House and Congress. These attempts at policy entrepreneurship resulted in reassurances by such political actors as Senator Lloyd Bentsen, Chair of the Senate Finance Committee, Vice-President George Bush and Treasury Secretary James Baker but they provoked little change in US negotiating behaviour.⁵⁸

Efforts to "shake loose the Americans"⁵⁹ were met with platitudes from the United States counselling patience and reaffirming official confidence in Murphy to get the job done. It would not be until the political rounds of CUFTA negotiations that the interventions with US decision makers began to pay off, although there were concerns that this progress might be too little, too late. Burney comments on the lack of meaningful US political engagement:

⁵⁷ Druckman (1986), 356.

⁵⁸ Hart *et al.*, 250.

⁵⁹ Interview with Simon Reisman, December 1, 1998.

Our problem was that we had a USTR, Clayton Yeutter, whose image of Canada was Niagara Falls and we had a Secretary of the Treasury who was a Mr. Fix-It in the administration but he wasn't worried about Canada. He was preoccupied with the arms control agreements with the Soviet Union.... Our problem is that we are not as important to the Americans as they are to us.⁶⁰

The Canadians needed stronger measures in order to capture the attention of the Americans. Meanwhile, as we see below, efforts were also continuing within the Canadian domestic politics stream to maintain a positive national mood and keep support from organized interests onside. With information leaks reaching the media suggesting that the negotiations with the Americans were not going well, sustained domestic consensus building was required as a counterweight.

(2) Politics Stream – Bolstering the National Mood

In Canada the progress of the negotiations was the focus of public attention, due in large part to the continuing media coverage of the process.⁶¹ Mulroney and his advisors recognized that media interest provided an opportunity to elevate the issue in the domestic politics stream by reinforcing coalitions among interest groups and maintaining a positive national mood regarding the issue. Both the government and the opposition worked to keep free trade at the forefront – the Tories seeking as much political mileage as possible through the completion of a successful agreement, and the Liberals trying to position themselves to strategic advantage for when an agreement inevitably failed.

⁶⁰ Interview with Derek Burney, February 21, 2001.

⁶¹ At the same time, the US media was paying scant attention to the process. The luxury of obscurity offered American negotiators relatively greater freedom of action (or inaction) at the negotiations.

At first, Reisman refused to speak to the media about the negotiations in any but the most general terms, worried that excessive coverage would give away too much information about Canadian reservation positions or strategies. However, after Joe Clark urged him to work with the media, Reisman warmed up to his role as the spokesman for the battle with the Americans and also as the leading critic of what he saw as the Americans' egregious negotiating tactics.⁶² Reisman's media exposure had important benefits for the Tories in the area of national mood beyond keeping the public informed. Even supporters of the agreement had lingering concerns about the ability of Canadians to withstand US bullying at the table, but Reisman was able to calm these fears somewhat by conveying a public image of the tough little guy who would not be pushed around by the Americans.

Through repetition of this image on the six o'clock news practically every night, Reisman developed a level of political influence that was rare for an official appointed to conduct closed-door negotiations with a foreign country, but perhaps not surprising given the importance of the agreement to Canadians. Says Reisman:

Every damned night for more than a year Canadians would sit down to their dinner, turn on the news and see me talking about free trade. There was no doubt that the deal was important to Canadians.⁶³

Direct media briefings represented only one instrument with which to bolster national mood and maintain the support of organized interests. Of no less importance to continued commitment in the politics stream were the formal channels of consultation operating through the TNO. During the negotiations, Reisman held monthly meetings

⁶² Interview with Simon Reisman, January 24, 2001.

⁶³ Interview with Simon Reisman, April 21, 1998.

with provincial representatives and Alan Nymark, the official in charge of federal-provincial relations, arranged conference calls with the provinces after every negotiating session. Ritchie similarly conducted consultations with various federal departments through the Mirror Committee of Deputy Ministers. As well, formal and informal briefings continued for business and interest groups, for the most part through the fifteen sectoral advisory groups created especially for the CUFTA which provided industry-specific feedback and advice to the negotiators.

Intergovernmental and provincial briefings from the TNO were useful to the extent that they helped to improve the technical understandings of the core trade policy community within government and they provided Reisman and his team with better mastery of a set of issues of unprecedented complexity. However, these briefings would also reveal the limits of consultation during active negotiation. What was not revealed, either in the meetings with provinces or even with the Cabinet, was the extent to which the negotiations were becoming bogged down by US intransigence. Reisman kept the briefings as general as possible and avoided commitment to firm positions, in the hope that the difficulties with US negotiators' would eventually work themselves out. As a result, a number of stakeholders who believed themselves to be close to the inner circle during the lead up to the negotiations began to feel "unplugged" during the formal negotiations.⁶⁴

Arguably, tension was inevitable no matter what the level of federal cooperation because expressions of dissatisfaction could be used by organized interests, such as the provinces, as a vehicle to improve the terms under which the deal was accepted later on.

⁶⁴ Interview with Simon Reisman, September 17, 2001.

Another impediment to strengthening provincial coalitions of support was that the provinces were far from united themselves. For example, while the western premiers remained supportive of the initiative throughout the process, Quebec waffled on occasion, governments in Manitoba and Ontario expressed opposition of varying levels, and the Maritime provinces tended to occupy the middle ground.⁶⁵ This distribution of interests reflected to some extent the political spectrum of provincial party politics, with Progressive Conservative leadership under Lougheed in Alberta, a Liberal government in Ontario, and the NDP's Howard Pawley in Manitoba.

In the Kingdon model, the emphasis is on the need to *build* coalitions in the politics stream to facilitate a government decision, but this case study highlights the challenges of *maintaining* coalitions after an initial decision has been made, particularly during a prolonged policy development process that involves external actors and interests. As Kingdon points out, policy windows do not stay open for long and “[o]pportunities come but they also pass”⁶⁶ as public attention moves on to other issues. The events in the Canadian politics stream during the CUFTA reveal some of the difficulties that prolonged external negotiations create for governments attempting to maintain constituent support for an evolving policy initiative from agenda setting through to implementation. The Mulroney government faced a quandary. On the one hand, the government sought to project a positive image of progress at the bilateral table to maintain domestic confidence and support. On the other hand, it seemed that a publicly recognizable crisis in the negotiations would be required to shake the American

⁶⁵ Hart *et al.*, 347-8.

⁶⁶ Kingdon, 203.

negotiators from the doldrums. With attempts at cross-border advocacy generally unsuccessful, the bureaucratic negotiations continued to founder.

TRANSITION FROM BUREAUCRATIC TO POLITICAL NEGOTIATING ROUNDS:

A Suspension and a Turning Point

In the summer of 1987, it became clear that the negotiations were becoming hopelessly stalled. The deadline for completing negotiations according to the terms of US Fast Track Authority was October 4, 1987.⁶⁷ To move things along, Reisman had asked some key officials to create a draft of a Canadian negotiating text for the plenary that was scheduled to begin on August 23 in Cornwall, Ontario. The objective was to knit together the work completed by each working group, incorporating the language and range of subjects specific to each negotiating area. The same exercise was to be undertaken by the Americans with the intention that both drafts would be amalgamated during the plenary to create a rough working text. However, when the proposed exchange of drafts took place, Canada discovered that the US text was in such an undeveloped state that a fruitful exchange was not possible. As well, the US text contained positions that Canada believed

⁶⁷ Congress had given the President the authority to sign an agreement with Canada no later than January 2, 1988. However, Congress also had to review the agreement for 90 days before the terminal date. Therefore, the President had until midnight on October 4, 1987 to conclude the agreement. However, the date had to be moved ahead one more day to Saturday, October 3 because the President could not date a letter written to Congress on a Sunday.

had been discarded months ago, indicating that the negotiations were much less further along than even the Canadian negotiators believed.⁶⁸

The United States would not move on trade remedies, and continued to maintain that no progress would be possible on government procurement. Canada, in turn, refused to make concessions on investment but because only a few weeks were left in September for any progress to be made, the waiting game was no longer feasible for either side. Mulroney, Clark, and others conveyed messages to their counterparts in the US administration at various levels that the Canadian negotiators could make no headway with the Americans led by Murphy. Once again, they received the standard response from Washington that Murphy had full authority to deal on all issues and that to pull him from the game at this point would only generate suspicion in Congress.

The dilemma facing the Canadians was whether to continue giving away concessions to a US chief negotiator who could not, or would not, make a deal, or to abandon the process and see if the United States would be willing to supply someone capable of completing the job. With all reasonable options exhausted, the Canadians called the negotiations to a halt on September 23, 1987.⁶⁹ Discussions between Reisman and the Prime Minister and Cabinet precipitated the decision for the Canadian suspension. As Brian Mulroney recalls:

The Americans, at that point in time, were just not taking this as seriously as they should have. Both Simon and I felt that the decision [to leave the negotiations] would send a rocket into the American position, which it did.⁷⁰

⁶⁸ Interview with Michael Hart, February 28, 2003; also recounted in Hart *et al.*, 278-81.

⁶⁹ At least a few of officials interviewed privately believed that the negotiations were in serious trouble well before this date.

⁷⁰ Interview with Brian Mulroney, June 12, 2001.

The reason that Reisman gave to the media for the suspension of the negotiations was that “the US is not responding on elements fundamental to Canada’s position.”⁷¹ From the multiple streams perspective, the suspension represented a problem-politics stream coupling that moved through a window precipitated in the problem stream by US non-responsiveness. As we have discussed, such was the importance of the agreement in the politics stream that the suspension was a risky move. However, previous Canadian responses to the problem of US inattention, such as cycling between cooperative and competitive bargaining and cross-border advocacy in the US politics stream had proved unsuccessful. Mulroney, in consultation with political and bureaucratic advisors, assessed the alternative stream options and determined that the suspension was the only hope to change the asymmetrical terms of the bilateral negotiations, even if it meant risking an agreement with which the Mulroney government’s reputation was inexorably linked.

As we discussed previously, attempts to shift a competitive negotiator to a more cooperative position through a crisis-driven turning point can only be successful if the competitive party recognizes the existence of a crisis. The Canadian suspension did provide a turning point in the synthetic utility sense and injected an unambiguous problem into the US problem stream. Such an action by the Canadians was very risky, however. The Canadians gambled that halting the negotiations and potentially sacrificing any chance at settlement was the only way to shock the United States into meaningful participation in the process. Cross-border policy advocacy by Gotlieb and members of Cabinet in the US politics stream had not been enough to capture the attention of American decision makers. By precipitating a crisis in the US problem stream, problem-

⁷¹ Quoted in Hart *et al.*, 293.

politics stream coupling took on a new shape and US decision makers would be forced to get serious about the negotiations with Canada or abandon them. The Canadian suspension forced open a window of opportunity in the United States for new problem-alternative sets to be considered. At the same time, however, there was no guarantee that new US problem-alternative coupling would produce a mandate to conclude an agreement on the terms sought by Canada. For Canada's gamble to pay off, the politics would have to be right in the US for a new policy alternative meeting Canada's needs to be returned to the bilateral table through US stream coupling. In the absence of such a favourable coupling, the Canadian suspension could just as easily have resulted in the termination of negotiations.

Read through the lens of bargaining analysis, the Canadian suspension forced the United States to re-evaluate the importance of the agreement and the utility of their no-agreement alternative. If the re-evaluation was favourable to Canada, the size of the US win set might widen, moving the US reservation outcome closer to the Canadian set of domestically acceptable negotiated settlements and increasing the likelihood of a zone of possible agreement.

THE RETURN TO MULTIPLE STREAMS DYNAMICS:

Long Distance Appeals in the Politics Stream

On the Canadian side, responsibility for the negotiations during the suspension and beyond passed to Derek Burney, the Prime Minister's chief of staff, who would act in concert with Finance Minister Michael Wilson and Trade Minister Pat Carney. Because

the Canadians had made it clear that they would not return to negotiations with Murphy at the helm, Reisman would also be relegated to a subordinate role within the politically-directed process. If there was a deal available, Burney was instructed by the Prime Minister to get it, but not at any price. If no deal was available, Burney was to focus on damage control.⁷² Treasury Secretary Baker was summoned by President Reagan to assume responsibility for events as they unfolded from the American side.

There was, at first, considerable difference in national perceptions of the seriousness of the Canadian walk-out. On September 24, 1987 on NBC's *Today Show* Baker optimistically stated: "I'm sure that there will be additional efforts to bring about a meeting of minds and I think these efforts will be at the highest level of both governments."⁷³ The hopeful tone of Baker's statement contrasted significantly with the bitter remarks made by Reisman a few days later on CTV's *Question Period* about American attention to the negotiations. He conjectured that "[the Americans] haven't really focused at the proper level until the last twenty-four, thirty-six hours and [now] it's probably too late."⁷⁴

At the time of the suspension, the consensus among Canadian ministers and trade officials was that the two sides were "too far apart and the price of agreement is too steep."⁷⁵ The American perspective was quite different. Although the United States was not prepared to fall into step with Canadian demands right away, neither was it prepared

⁷² Carol Goar, "An Insider's Account: How the Trade Agreement Was Reached," in *Toronto Star*, October 6, 1987.

⁷³ Cited in Hart *et al.*, 320.

⁷⁴ Cited in Hart *et al.*, 321.

⁷⁵ Hart *et al.*, 318. The account of these events is a composite of interviews conducted with trade officials and the chronology set out in Hart *et al.*, Chapter 15, "A Near Run Thing".

to accept the failure of the agreement. For one thing, it would dangerously strain relations with its northern neighbour. As well, it would reflect badly on the prestige of the presidency and result in the loss of an initiative that Reagan had called “historic” in his State of the Union address, and that Secretary of State George Schultz had recently identified as the administration’s top international priority equal to the Soviet agreement on arms control.⁷⁶

In addition to political pressure from the Prime Minister, members of Cabinet, and the Canadian ambassador, it is argued here that US objectives at the Uruguay Round also played a role in altering US thinking about the importance of the CUFTA. There was growing awareness that failure to make a deal with the Canadians would make it harder to achieve US objectives in similar negotiating subjects multilaterally. Logic suggested that the United States should complete a deal with Canada before claims about American commitment to trade liberalization would be taken seriously at the GATT. As Hart and Dymond recall, the message to the United States from the international community was, “If agreement with its closest ally and major trading partner was not possible, what hope was there for significant breakthroughs with the other members of GATT?”⁷⁷ Although the argument here is inferential, Canada’s ambassador at the GATT, Sylvia Ostry asserts, “The US policy was to use the FTA to push progress in the Round.”⁷⁸ She recalls deputy USTR Mike Smith threatening to walk out of the Uruguay Round negotiations and sign a network of bilateral agreements with cooperative trading partners as an alternative to a dysfunctional multilateral system.

⁷⁶ Hart *et al.*, 318-319.

⁷⁷ Hart *et al.*, 319.

⁷⁸ Interview with Sylvia Ostry, February 21, 2001.

If Ostry's recollection is accurate and if Smith's disposition was shared in Washington, then this is indicative of a shifting US perception of no-agreement alternative utility: when the agreement was based on the economic rationale of US-Canada trade, no agreement and a return to the *status quo* would not pose much of a cost to the Americans. If, however, success in the CUFTA was being framed internationally as a precursor to US multilateral trade policy objectives, then the cost of agreement failure had escalated and the US could be disposed toward more cooperative bargaining. Another influence contributing to the possibility of change in US perceptions was the inclusion of new and influential actors in the US politics stream such as Baker and Schultz. The record of their statements and actions at the time indicate that they saw the agreement as more important than just a collection of minor bilateral resolutions.

Initially, the United States thought that the Canadians would return to the table within a few days, but after a week it became clear to the Americans that the Canadians were prepared to live without an agreement. Alternative-politics stream coupling was taking shape in the US and Congress, prodded by the political actors now in charge of the process for the US side who began to signal a willingness to compromise. As Hart et al. argue: "A successful trade agreement might not have been part of Congress's political agenda, but many in Congress did not relish the idea of failure."⁷⁹

The United States was getting the message that Canada was serious about terminating the negotiations, but was unsure how to fix the problem.⁸⁰ Political diplomacy was the first option. On the morning of September 24, Baker called Burney to

⁷⁹ Hart et al., 319.

⁸⁰ Description of events in this section is based on conversations with Mulroney, Burney, Gotlieb and Hart.

advise him that the President wished to telephone the Prime Minister to discuss the situation at noon that same day. As the President's representative on the issue, Baker wanted to convey to the Canadians that the suspended negotiations now had the full attention of the White House.⁸¹ Burney responded that there was no point to the phone call unless the President was prepared to make a serious proposal to Mulroney to salvage the agreement. This call from the President never came. Word came back that Baker had ordered Yeutter, Smith, and Murphy to review the US position for any opening upon which a new proposal could be based. Pressure from the politics stream was breathing new life into the search for solutions in the US alternative stream.

Meanwhile, at the Canadian embassy in Washington, Ambassador Gotlieb was still trying to build coalitions of support on Capitol Hill to salvage the negotiations and to find some basis upon which to put the negotiations back together. At the centre of the impasse was the issue of trade remedies. A possible solution emerged during the ambassador's discussion with Sam Gibbons, Chair of the House Subcommittee on Trade. Gibbons saw that a major reason for the breakdown was the failure to come up with a new set of shared trade remedy laws. He suggested, therefore, that instead of looking for common regulations, the focus could shift to ensuring consistent application of each country's own domestic laws in a manner satisfactory to both sides.⁸²

Gotlieb responded that this approach would only provide a temporary solution because the United States could change the law the next day and Canada would have no legal defence against the new law. For Gibbons' suggestion to work, domestic trade

⁸¹ Interview with Brian Mulroney, June 12, 2001.

⁸² Interview with Allan Gotlieb, February 19, 2001.

remedy laws would have to be frozen in their existing state. Gotlieb proposed that they draw upon the international law principle of good faith used during certain negotiations whereby both parties agree not to change their laws in any way that would frustrate the object and principle of the proposed agreement. This good faith provision would only apply for seven years, during which time the parties would agree to further work on a joint subsidies code.⁸³

The initial work-up of Gibbons-Gotlieb proposal was not well received by the Americans. Its success would depend on Congress accepting limitations on its ability to change trade remedy laws and this was a non-starter as far as Baker was concerned. Baker had warned Burney not to make too many demands on Congress, to which Burney responded, "The US administration is going to have to take a risk for Canada with Congress."⁸⁴

Acting on the advice of the USTR team, Baker sent a proposal to the Canadians offering special treatment on certain trade remedy provisions, unaware perhaps that the same "safe harbours" package had been rejected by the Canadians as unworkable months before.⁸⁵ Reisman speculates that at this time, Baker was still not yet aware of how great a gap existed between the two sets of negotiating positions.⁸⁶

In addition to cross-border coalition building, Gotlieb was also engaged in some domestic politics stream entrepreneurship as he pressed the Canadian side to accept the proposal he had worked out with Gibbons as a cooperative gesture to bring the sides back

⁸³ Interview with Allan Gotlieb, February 19, 2001.

⁸⁴ Quoted in Goar, *Toronto Star*.

⁸⁵ Interview with Simon Reisman, September 17, 2001.

⁸⁶ Hart *et al.*, 322.

to the table. Burney, however, had been given leave by the Prime Minister to respond to the United States as he saw fit.⁸⁷ He rejected the offer. Minister Carney compounded the effect of the rejection by announcing that same day that if the negotiations collapsed and the US passed punitive trade legislation, Canada would respond in kind. She warned, "Congress should remember that it plays a leadership role in the world economy and that what it does may well be copied elsewhere."⁸⁸ The gloves were off. If the United States wanted a deal, it had to be prepared to compromise.

Some movement occurred during the weekend of September 26th and 27th. Michael Wilson was travelling to Washington for an IMF meeting and hoped to meet informally with Baker as well. Another proposal had also arrived from the United States showing limited progress on a subsidies code, but the ministers and senior officials in Ottawa did not believe that it was sufficient to re-start talks. As he had labelled so many of its predecessors, Reisman called the US offer "derisory."⁸⁹

Officials in Ottawa still awaited evidence of substantial improvement to the earlier US positions.⁹⁰ The Prime Minister had made it clear that he was prepared to telephone the President and bring the fruitless negotiations to a dignified conclusion. Most ministers were ready to move past free trade and onto other business.⁹¹ Telephone negotiations between the two capitals continued to yield little of what the Canadians

⁸⁷ According to Burney, he advised the Prime Minister that the deal was unsalvageable no fewer than five times during this period. Interview with Derek Burney, February 21, 2001.

⁸⁸ Honourable Pat Carney, *Speech to the National Conference of Editorial Writers* (Vancouver, September 25, 1987).

⁸⁹ *Financial Times of Canada*, July 25-31, 1994.

⁹⁰ Hart *et al.*, 324.

⁹¹ Interview with Derek Burney, January 26, 2005.

considered to be meaningful compromise and they responded with counter-demands that the US believed to be extreme.

Regardless of the continued US inability to find a trade remedies formula that would satisfy Canada, it was clear that the role of *demandeur* was shifting, at least during the suspension. This is evident by the contrasting tone of statements in the press at the time. Yeutter, evidently frustrated by telephone diplomacy, declared that it was “imperative that the negotiators themselves get back to work on some of these issues very soon.” The dispassionate response from Canada, channelled through the PMO communications staff, was, “We have Mr. Yeutter’s observations in front of us and that’s one of [*sic*] the things we are looking at.”⁹²

Complaints to the White House put even more pressure on the USTR. The Prime Minister had redoubled his efforts with the US executive, contacting President Reagan, Vice-President Bush and James Baker. Mulroney claims to have given the president a “hell of an earful” over the failure of the US side to take the negotiations seriously. Reagan acknowledged to Mulroney that the United States had temporarily “lost sight of the importance of the agreement” but promised to get things back on track and requested that Mulroney call him back directly at the first sign of any other problems.⁹³

Despite the emotional appeals that continued between Washington and Ottawa, Burney concluded that the substantive options were nearly exhausted but Gotlieb remained more optimistic than his colleagues in Ottawa. He continued to work to build bridges and orchestrate a meeting between Wilson and Baker. It was finally agreed that

⁹² Statement by Bruce Phillips, Director of Communications, Prime Minister’s Office, quoted in *Globe and Mail*, October 1, 1987.

⁹³ Interview with Brian Mulroney, June 12, 2001.

the two political teams should meet face to face on Monday the 28th to explore the possibilities for re-starting the negotiations. Burney, Wilson and Carney went to Washington to meet with Baker and Yeutter to explain one last time why none of the previous offers had been acceptable. The US side, believing that the Canadians had finally come to their senses and were returning to finish the deal, were disappointed to see only the political leads in attendance and not a full negotiating team. Burney, however, impressed upon the Americans that the Canadian delegation had come for a post-mortem, not a resurrection.⁹⁴

During the resulting eight-hour meeting, there was little of what could be termed substantive progress. Baker and Yeutter were desperate for a solution but had no new proposals to offer. As the Canadians returned to Ottawa to prepare to announce the end of the negotiations, Baker met with the Senate Finance Committee to brief them on the situation. The crux of the problem was that likely Congress would reject any trade remedies compromise that was acceptable to Canada. While a vocal minority of committee members⁹⁵ deemed the Canadian position unreasonable, Senator Bill Bradley thought the initiative could be saved and set about building consensus among his colleagues to allow Baker to find more creative solutions, even if they limited Congressional prerogative.⁹⁶

Buoyed by the more conciliatory spirit of the Finance Committee, Baker announced that they were now prepared to deal on the Gibbons-Gotlieb proposal. While barely sufficient to address the Canadian concerns, a Gibbons-Gotlieb proposal that had

⁹⁴ Hart *et al.*, 327.

⁹⁵ Led by Senator John Danforth of Missouri.

⁹⁶ Hart *et al.*, 327.

been somewhat strengthened by subsequent staff work, combined with evidence of renewed commitment on the part of the Americans was enough to bring Canada back to the negotiations on Friday, October 2, 1987.⁹⁷ The officials were not convinced that a basis existed for a return to the table, but the political calculation made by the emissaries in Washington was that the Canadians should not appear to be walking away from the negotiations while the Americans still had something to offer.⁹⁸

Bargaining Analysis

The combination of international pressures and policy entrepreneurship from Parliament Hill to the White House, and from the Canadian embassy to Capitol Hill finally focused the attention of US political decision makers on the CUFTA. Not only did Treasury Secretary James Baker have the authority to reach an agreement, he seemed to be willing to engage in the creative problem-solving necessary to get there, even to the extent of conceding in some areas to Canadian interests. US actions are a good indicator of changes to the US perception of agreement importance. The US politics stream, which had remained detached throughout the months of bureaucratic negotiation, finally engaged. This helped to transform Reagan's early, symbolic support for the agreement into material effect that ratcheted up agreement importance, diminishing the perceived utility of the NAA for the United States, and created genuine attempts at conciliation and cooperation from the US side.

⁹⁷ Interview with Michael Hart, February 28, 2003.

⁹⁸ Goar, *Star*, October 6, 1987.

Figure 8 below illustrates graphically how renewed interest in the politics stream together with some concerns about the demonstration effect of a failed CUFTA at the Uruguay Round raised the priority of the agreement for the United States. This meant that their original non-agreement alternative, a return to the *status quo*, was no longer acceptable to the Americans. This predisposed them to expand the range of negotiated settlements they would accept, pushing their reservation outcome inward toward the set of outcomes also acceptable to Canada (depicted as the movement from US_{Res}^1 to US_{Res}^2 in Figure 8). Although the United States retained superior bargaining power because of the relatively greater economic value of its market, the change of perception paved the way for the establishment of a zone of possible agreement and a negotiated settlement acceptable to both sides. Similarly Canada was now willing to entertain a new compromise position on trade remedies as a result of the Gibbons-Gotlieb proposal. With the addition of this new solution to the win set, Canada's reservation outcome also shifted towards the United States (depicted as the movement from Cda_{Res}^1 to Cda_{Res}^2 in Figure 8).

FIGURE 8: CANADA-US WIN SET – CUFTA BEFORE AND AFTER THE SUSPENSION OF TALKS

Domestic Assessment

A multiple streams analysis draws our attention to some interesting couplings that took place between the domestic politics and alternative streams during the intervening period between crisis and resolution surrounding the Canadian walk-out. After the suspension of talks, the locus of activity shifted from the bilateral table to the domestic politics stream. However political bargaining and appeals did not go far until a potentially-viable alternative emerged – the Gibbons-Gotlieb proposal – upon which to build a basis for further action. Once again, we see another similarity with the Auto Pact case in which a problem that was not resolvable at the bilateral table was returned to the domestic streams for reconsideration (resulting in the inclusion of industry in a tripartite arrangement). Also, as in the Auto Pact case, alternative stream development and assessment of options played a role in the legitimization of a particular proposal, even as politics stream acceptance of the alternative was essential for its inclusion on the decision agenda. The

close linkages between alternative and politics streams in these case studies suggest that there is occasional blurring and overlap at the margins of these two streams. In the Auto Pact case, the solution that was generated in the alternative stream actually brought new players (industry) to the domestic politics bargaining table. In the CUFTA case, it was a Canadian bureaucrat (Gotlieb) attempting to build coalitions within the US politics stream, and a US political actor (Gibbons) who were the originators of the alternative stream solution. This is consistent with Mucciaroni's call for greater emphasis within multiple streams theorizing on the mutual interdependence of streams, including alternative-politics stream linkages. As he notes, "Changes in one stream can trigger and reinforce changes in others, increasing the probability that coupling will take place."⁹⁹

Another area where the distinctions between the alternative and politics stream are blurred during this phase is in the role of Reisman, both as an official working in the alternative stream to create policy proposals that matched political demand, and as a politics stream actor sustaining national mood in support of the agreement through the media. Another actor who crossed frequently between the politics and alternative stream was Derek Burney. After he took over the political leadership of the CUFTA negotiations on behalf of the Prime Minister, Reisman was kept close to the centre of policy decision making both because of the utility of the technical information he supplied to the process and because Reisman's public endorsement of the deal would be critical to public acceptance.

⁹⁹ Mucciaroni, 473-4.

FINAL ROUND

On Friday, October 2, 1987, the Canadian team travelled to the newly relocated Washington negotiating headquarters at the Treasury Department. They were aware that a deal had to be completed within the weekend to meet the American deadline of midnight Saturday. The initial work-up of the text was handled by Germain Denis for Canada and Bill Merkin for the United States. Key TNO personnel were set up in a suite of rooms behind James Baker's office. Other TNO experts were headquartered a few blocks away. The negotiations themselves took place in Baker's boardroom. At the table for the United States were James Baker, Baker's deputy secretary Peter McPherson, Clayton Yeutter and his deputy Alan Holmer. The Canadian team included Derek Burney, Simon Reisman, Michael Wilson, Pat Carney and Allan Gotlieb, with a vacant chair for issue specialists who were called in as needed.

Much is made of the enormous progress that was made during these Washington negotiations and, from all accounts, the negotiating teams performed heroically around the clock. However, it is important to note that, according to the reckoning of a number of trade officials, many elements of the agreement had been hammered out before the infamous Washington weekend but could not be brought to a firm conclusion.¹⁰⁰ In other areas, however, much more work was required, with trade remedies predictably being the most difficult.

¹⁰⁰ Interview with Bill Merkin, April 26, 2001.

Once more an attempt was made to fuse together US and Canadian understandings of the positions into a working text. However, this exercise proved to be much more productive than the previous attempt in Cornwall because of the political pressure to generate progress. The Canadian and American heads of working groups were asked to collaborate to create one-page summaries outlining areas where agreement had been reached and areas that remained in contention. These single-page briefs disciplined the officials to focus only on the most important subject matter. They provided the political negotiators with a concrete work plan and subsequently formed the basis of the initial draft text.

After returning to the table, significant progress was made on all major issues including investment for the US and government procurement for Canada. However, holes remained in the Gibbons-Gotlieb proposal and this threatened to derail the process yet again. Among the most serious questions was that if national trade remedy laws were frozen for a period of time to avoid interfering with the CUFTA, what would happen after the good faith period ended? The Canadian and US interpretations of how national trade remedy laws could be amended were vastly different. Echoing the complaints heard during the Auto Pact negotiations, there were concerns from the US Commerce Department that a commitment to curtail Congressional action in perpetuity could create more problems internally than it solved externally.¹⁰¹ After much discussion, a proposal was made that each country would have to name the other in specific changes and

¹⁰¹ Hart *et al.*, 333.

decisions related to domestic trade remedy laws.¹⁰² These decisions would be subject to a binational panel review to determine if there were any errors of law or process.

The pressure of a deadline created rifts within the Canadian team between those who felt that they should exhibit flexibility in order to get the deal done in time, and those who felt that no deal was better than a deal based on over-reaching compromises.¹⁰³ Ambassador Gotlieb encouraged the Canadians to take the deal but Reisman and Wilson believed that Canada should walk away from the deal unless the binational review process was further strengthened against legislative changes that could nullify the intent of the agreement.

During a late night conference call, the core Canadian team was asked by the Prime Minister whether a strengthened binational review process was a deal breaker: Gotlieb urged acceptance, Minister Carney was unwilling to respond without a longer period of deliberation, but Reisman and Wilson argued that the current proposal represented a deal built on “shifting sand” and could not be sold to the Canadian public.¹⁰⁴ Burney and Mulroney agreed and Canada’s decision to abandon the negotiations was conveyed to Baker. When Burney made it clear to Baker that there was no possibility of agreement without more protection against legislative changes than was available through the narrow procedural review that had been proposed, the Treasury Secretary was impelled to action. He advised his people to be creative in what little time

¹⁰² Doern and Tomlin, 197.

¹⁰³ Interview with Simon Reisman, August 19, 2000.

¹⁰⁴ Reisman had experienced first-hand how changes in US domestic policy had, intentionally or not, worsened economic relations with Canada through such measures as the interest equalization tax and the import surtax of the 1970s.

remained. One hour later, Baker's team returned with a package of improvements to the original binational review proposal that was acceptable to the Canadians.¹⁰⁵

After ironing out a few concerns, such as composition of the legislative review panels¹⁰⁶, the Canadians agreed to the revised proposal. At a few minutes after midnight on October 4, 1987 the two sides announced that a successful agreement has been reached and both began to prepare a draft text suitable for distribution to the media. The Canadians, who had a double workload because of the need to produce the text in both official languages, were surprised and upset when the Americans initiated the press conference earlier than the agreed-upon hour and provided the media with an American version of a preliminary text, drafted to their advantage.¹⁰⁷ The initial product of the negotiations in Washington was a 30-page document entitled "Elements of Agreement."

Bargaining Analysis

The first walk-out drastically shifted the US perception of the shape of the Canadian win set and this cast serious doubts on any US supposition that Canada's NAA was so poor

¹⁰⁵ The previous proposal involved binational review of final tribunal decisions only. The improved proposal allowed binational review of all lower tribunal proceedings contributing to the decisions so that if the conclusions of the lower tribunals were wrong, the binational process could force them to re-open the case. Doern and Tomlin, 198; see also Hart *et al.*, 333-4.

¹⁰⁶ Although it was agreed that of the five-member panel two should be Americans, two Canadians and a fifth alternating between the two, the question remained as to whether all panelists should be lawyers. The US thought they should. Canada disagreed. Eventually, it was decided that the majority should be lawyers, so essentially, Canada was free to name specialists from other fields to the panel whenever it wanted since the US would probably always choose lawyers. Later, during the drafting phase, new concerns would have to be ironed out over US right of appeal and the implications for panel decisions. The extraordinary challenge procedures that emerged circumscribed the right of appeal to a very narrow range of conditions such as corruption and gross procedural errors.

¹⁰⁷ This draft included language on pharmaceuticals that had not been agreed to by the Canadians. Although it did not make its way into the final text, its removal, and subsequent explanations as to why it was there in the first place, proved onerous for the bureaucrats involved.

that its negotiators would make a deal on any terms. More importantly, it forced the United States to re-examine the importance of the CUFTA to its own interests and adjust its bargaining strategy according to a renewed politics stream perception of agreement importance. President Reagan's interest in the CUFTA was sufficient to bring James Baker, the administration's "Mr. Fix-It", to help to resolve the impasse.¹⁰⁸ As predicted by Druckman, the recognition of the crisis by both sides prompted more cooperative behaviour by the formerly competitive bargainer and marked a turning point towards settlement.

Responsibility for the conduct of the negotiations switched from the bureaucratic level to political control where central actors held expanded decision making authority. With only a few days available to negotiate the bulk of the agreement, the principals had no option but to find consensus wherever possible. Thus, during the final rounds we see a number of examples of value-creating bargaining, such as the exchange of draft texts, working party collaboration, and problem solving on binational review of trade remedies legislation.

The US revision of its NAA and the resulting impact on bargaining strategy from competitive to cooperative is described above. In Canada, the suspension was also accompanied by a domestic politics stream review of agreement importance, although the order and outcome of events are quite different. First, consultation in the politics stream took place in advance of the walk-out in order to determine that if the Mulroney government was willing to live without the CUFTA. This commitment to accept non-agreement if necessary freed up bargaining leverage for the Canadian negotiators and

¹⁰⁸ Interview with Brian Mulroney, June 12, 2001.

allowed them to pursue more competitive strategies. The walk-out represented the first successful competitive tactic by the Canadians but not the last as the political phase included a number of subsequent refusals to concede on issues of importance.

One area where Canada did make an important concession was on the issue of trade remedies. (This was depicted in Figure 8.) On the face of it, it would seem that the initial mandate of shielding Canada from US trade remedy actions went unfulfilled. Doern and Tomlin argue that Canada was out-negotiated on this issue. The TNO negotiators dropped to their reservation outcome – the minimally acceptable position that they could accept politically and still make a deal – and made important concessions in other areas to achieve even a compromise position.¹⁰⁹ However, the creation of a temporary regime to regulate the application of existing trade remedies meant that the United States was constrained in its ability to change trade remedy rules through legislation or application and similarly in its application of trade remedies through the introduction of binational review panels.¹¹⁰

Hart *et al.* argue that the development of a temporary regime was a good start. It provided some progress and left the door open for future work.¹¹¹ Analytically this explanation is consistent with the provisions of our original framework that a party with a poor NAA will choose to bargain cooperatively and make concessions rather than risk losing an agreement entirely. However, since the September 23rd walk out, the Mulroney government's willingness to abandon the agreement indicated a revised assessment of NAA utility and a willingness to bargain competitively. How can we then explain

¹⁰⁹ Doern and Tomlin, 284.

¹¹⁰ Hart *et al.*, 334.

¹¹¹ Hart *et al.*, 334.

cooperative behaviour, and a willingness to accept the trade remedies compromise, when the NAA points to competition?

In the Auto Pact analysis, it was argued that parties may bargain competitively if no agreement is actually preferable to an agreement that does not include particular locked-in conditions. It is argued here, however, that the conditions for Canada in the Auto Pact – guaranteed investment levels and lengthy agreement duration – were essential from a practical standpoint, whereas the conditions in the CUFTA – protection for Canada from US trade remedy measures – were more related to politics stream issue framing and could not practically be achieved in a bilateral agreement during a period of high Congressional protectionism.

As has been mentioned elsewhere, the domestic streams framing of the problem to be ‘solved’ by the CUFTA was linked to US protectionism, so trade remedies received a significant amount of attention by negotiators, even if fully shielding Canada from US contingency protection was not a reasonable aspiration on a practical level. With the Gibbons-Gotlieb proposal, Canada was able to adopt a new reservation outcome that was situated closer to US interests and more likely to reside within a zone of potential agreement but still allowed them to claim some US movement on the issue. Nevertheless, Canada still retained a few conditions, including treatment of legislative changes, which it was not willing to abandon.

During the final round of CUFTA negotiations, there was frequent consultation with the Prime Minister regarding which provisions to accept and which were deal breakers. This ongoing process of political reappraisal is consistent with the predictions made in the multiple stream-synthetic utility model, that the results of bilateral bargaining

return to the domestic politics stream for periodic review. Thus, the assessments of the status of negotiations are largely reliant on political perceptions. Similarly, when the formal bilateral agreement was concluded on October 3, 1987, the results were returned once again to the domestic streams for the final phase of domestic deliberation.

LEGAL DRAFTING AND DOMESTIC RATIFICATION

Although a deal had been agreed to in Washington, the specifics of the final agreement and drafting language were yet to be worked out. Officials from both sides noted that the text that emerged from the political round was underdeveloped and required a great deal of intervention during the drafting phase:

The big political deal was cut on October 3rd but the text was not nearly as advanced as you would have expected it to be at that point... I mean the auto [provisions were] not really a deal at all, but we were faced with some statutory deadlines so we had, by definition, finished.¹¹²

The successful conclusion of the negotiations was an important outcome but it did not mean that implementation of the agreement would be easy; it only permitted the formal negotiations to give way to informal, but no less important, bargaining during the legal drafting phase.

Once more, the cast shifted and major responsibilities returned to the bureaucracy. Legal specialists Konrad von Finckenstein and his American counterpart Chip Roh led the national drafting teams with officials from the TNO and USTR brought to the table on sectoral issues as required. Reisman and Murphy were also reunited to interpret the

¹¹² Interview with Chip Roh, April 27, 2001.

intentions of the negotiators for the benefit of the legal drafters, but the tone of high drama had left the negotiations and, most often deputy negotiators or sectoral specialists were left to work out the details in the absence of the two leads.

In spite of the lower voltage of the negotiations, the drafting phase was not a good time to let down one's guard as last-minute details emerged and attempts were made on both sides to improve the deal beyond what had already been negotiated. For example, lengthy discussions were held on extraordinary challenge procedures for dispute settlement. In autos, a heated debate erupted over whether 56 percent North American content was reasonable in order for vehicles to be considered domestically-produced. As well, prior concessions made by the US on maritime transport had to be rescinded.¹¹³

From a bargaining analysis perspective, some level of competitive strategic behaviour continued through the drafting stage as both sides attempted to align the terms of the final settlement closer to their interests. However, as defection from the agreement was really no longer an option, bargaining strategy was no longer tied to no-agreement alternative consideration. Negotiators relied instead on persuasion and skilful use of legal language, as each side attempted to get the other to adopt preferred interpretations of text.

After several months of intense drafting, together with periodic consultations between Derek Burney and Deputy US Treasury Secretary Peter McPherson on final details, a final text was achieved on December 10, 1987. Simon Reisman delivered the text to the Prime Minister in the House of Commons the next day. The Prime Minister and the President signed the agreement on January 2, 1988, in conformity with US Fast

¹¹³ The US lobby for maritime transport is extremely powerful and well protected by the Jones Act which requires that intercoastal (Great Lakes) transport of goods between US ports take place in American vessels. The Act was eventually grandfathered into the agreement. Hart *et al.*, 303.

Track requirements. However, as we will discuss below, the passage of the bill in Canada through the House of Commons and Senate was interrupted by a general election. Once more the initiative for the successful development of the CUFTA passed into the domestic politics stream, although this time the public would have a more direct effect on politics-alternative stream coupling through voter acceptance or rejection of the CUFTA.

RETURN TO DOMESTIC STREAMS

Even though drafting was largely completed between mid-October and mid-December, 1987, the ratification process dragged on for nearly another year until November 1988, as the CUFTA was unexpectedly caught up in a federal election campaign. Members of the policy community within the alternative stream were surprised when free trade became the central issue of the 1988 election after Liberal opposition leader John Turner requested that the Senate not pass the legislation until after a federal election. Even though the idea had been introduced and endorsed by the Trudeau government, Turner had made the death of free trade his personal crusade. This represented both a focusing event forcing the government to recognize an imminent problem and, in bargaining terms, a turning point away from settlement. Derek Burney describes the mood of the bureaucracy going into the election:

You see, I don't think any of us really expected that the 1988 election was going to be on free trade. We thought that that was over and done with. And I guess the reason that many of us were surprised that Mr. Turner's outburst in the debate caused such a panic in the streets was we'd heard it all before, we'd heard it in Parliament day in and day out. There was

nothing new there. So this did catch us a bit by surprise during the election campaign.¹¹⁴

Bringing the results of an international agreement into force in Canada is usually a fairly routine procedure.¹¹⁵ However, because of the Senate's unusual block of the CUFTA, the agreement became a central election issue. Considerable time had elapsed since the government first announced its intention to negotiate. Groups opposing the agreement had had time to develop more trenchant criticisms while supporters of the agreement were now perceived as singing the same old song, especially since two years had elapsed since Mulroney and Reagan formally agreed to create the bilateral deal. In terms of national mood, support for free trade had fallen dramatically among Canadians. Although professionals and small business owners were more likely to support the idea, union members and blue-collar workers were less likely to support it. The strongest determinants of attitudes, however, were regional with Ontario continuing to oppose free trade, and the West strongly in favour.¹¹⁶

During the fall and winter of 1987-1988 the boundaries between the alternative and politics stream were once again blurred as frantic TNO officials worked to develop the internal technical mechanisms required to implement the agreement, to explain the agreement to the Canadian public, and to defend it in the political arena as well. Because of the technical nature of the agreement and the newness of the issues, it was often the

¹¹⁴ Interview with Derek Burney, Toronto, February 21, 2001.

¹¹⁵ Parliament is not legally required to give its approval before a treaty is ratified but it is customary for the Canadian government to seek parliamentary approval of important treaties. Such approval is given by way of a resolution of both Houses rather than the passage of legislation. P. Hogg, *Constitutional Law of Canada*, 3rd ed. (Toronto: Carswell, Ontario, 1992), 284-285.

¹¹⁶ Dasko, 26 (Enviro-nics polling).

bureaucrats who were brought to Parliament to explain the agreement. There, they were frequently the target of opposition MP attacks even though the political-bureaucratic division of labour in Canada proscribes public declarations of personal opinions or public advocacy by officials. Gordon Ritchie explains:

[W]hile I was in the public service, my task was very simple. I perceived that my job was to explain the agreement and I was prepared to say to anyone who asked that it was the best agreement we could negotiate because I had been in it and I knew that [we had reached] the limit of what the Americans could agree to. As to whether it was ultimately thumbs up or thumbs down, that involved a lot of elements that were beyond my purview.¹¹⁷

One actor who moved overtly from the alternative stream to the politics stream was Simon Reisman. After the passage of the implementing legislation through the United States Congress in July 1988, Reisman believed that the major free trade hurdles had been cleared. He submitted his resignation to the Prime Minister and left Ritchie to oversee the passage of the Canadian legislation through Parliament. However, when the CUFTA became a central election issue, Reisman's services as policy entrepreneur were again required to help re-build coalitions and interest group support in the politics stream.

Pulled back into the free trade debate as a private citizen, Reisman was in a position more amenable to the expression of personal opinion in favour of the agreement. He was not prepared to see the agreement that he had worked so hard for die at the hand of politics. At his own expense he embarked on a cross-country speaking tour "talking to any business association or Rotary Club that would listen"¹¹⁸ to spell out the benefits of the agreement. Despite pressure from Tory insiders, he resisted appeals to add partisan

¹¹⁷ Interview with Gordon Ritchie, August 22, 2001.

¹¹⁸ Interview with Simon Reisman, August 19, 2000.

support for the government to his public campaign. His refusal was not a matter of personal politics so much as his belief that a deal had been struck that could stand on its own merits – Reisman felt that the perception that he was politically tainted would diminish the integrity of the agreement.

Conclusion

The most difficult battle for Canadians during implementation was, unexpectedly, a domestic one. With the CUFTA tied to the election, the government was forced to return to the process of politics stream coalition building for continued support. The Liberals had introduced the acceptance of the CUFTA as a problem in the problem stream. The only alternatives available to the Conservatives were to fight or capitulate. Having chosen to fight, the battle for public acceptance took place in the politics stream through renewed appeals to national mood, confidence building to reduce uncertainty, and appeals to organized interests and policy entrepreneurs in order to assist in coalition-building efforts.

The results of stream coupling, however, produced not a governmental decision, but a decision of the electorate on whether or not to confirm the political coupling of Canada's economic problems with the CUFTA solution. The federal election provided a window of opportunity for public support for the CUFTA to be confirmed or denied. On the free trade issue, the Conservatives were once again challenged by concerns about US dominance and criticized for undermining Canadian sovereignty. However, while the Liberals were able to benefit from election timing that allowed them to frame the highly visible bargain with the United States as a problem created by the Conservatives, they

really had nothing to offer as an alternative to the CUFTA. Consequently, the problem-alternative stream coupling prospects were limited. In the case of the CUFTA, the voters took a leap of faith themselves, reaffirmed their bargain with the Mulroney government for another five years, and consolidated the coupling of politics stream interests with the bilateral solution originating in the alternative stream.¹¹⁹

The Progressive Conservative election victory on November 21, 1988 allowed the CUFTA's technical and political hurdles to be cleared. The Senate finally gave the green light for Royal Assent on New Year's Eve and the Governments of Canada and the United States exchanged diplomatic notes allowing the agreement to enter into force on January 1, 1989.

Tracing the CUFTA Policy Development Process

As we observed in the Auto Pact case study, the evolution of the CUFTA from domestic initiative, to bilateral agreement, and back to the domestic level for implementation, was driven by the reciprocal dynamics of multiple streams and bargaining. The key events

¹¹⁹ Doern and Tomlin (239-40) argue from public opinion data that while free trade was indeed the major issue of the 1988 election, it is an over-simplification to say that the election represented a plebiscite on free trade for a number of reasons. For example, exit polling suggested that voters were also expressing their approval/disapproval for the Mulroney government overall and free trade represented one of several considerations made by voters. See Jon Pammett, "The 1988 Vote," in *The Canadian General Election of 1988*, A. Frizzell, J. Pammett, and A. Westell eds. (Ottawa: Carleton University Press, 1989). The opposing view, that the vote more clearly reflected public opinion on free trade, can be found in Graham Fraser, *Playing for Keeps: The Making of the Prime Minister, 1988*, (Toronto: McClelland and Stewart, 1989). In either case, if national mood had turned against the Conservatives in that election, whether on the basis of free trade or other issues, the composition of the politics stream would have changed considerably. We can speculate that a gravitational shift of national mood or a change in government would have hurt the chances of the CUFTA alternative remaining coupled to positive political support, thereby diminishing the future likelihood of its ratification.

and responses shaping the CUFTA that we reviewed in Chapters 6 and 7 are set out in the process tracing chart (Table 4) located at the end of this chapter.

The CUFTA is an example of a bilateral trade policy initiative that was developed as a response to pressing national problems of US protectionism, an economic recession and diminishing industrial competitiveness. With various nationalist solutions in the alternative stream already tried and found wanting, Trudeau's Liberals made a cautious attempt at bilateral free trade through sectoral negotiations with the Americans. However, the negotiators were unable to bring these to a successful conclusion because of a lack of cross-sectoral trade offs.

Fear of worsening economic conditions prompted Canadians to give more serious consideration to closer economic relations with the United States. At the same time, government turnover opened a window of opportunity for a new policy initiative. Within the problem stream, the dominant problem was defined as US protectionism and the need to curb US trade remedies. The preliminary rationale for free trade was generated by positive policy community analysis. This accelerated the diffusion of the idea through the alternative stream. Subsequently, comprehensive free trade found a place on the governmental agenda and a tentative commitment was made by the new Progressive Conservative government to explore the initiative. However before complete politics-alternative stream coupling took place and situated free trade on the Canadian decision agenda, support among organized interests had to be consolidated in the politics stream.

Alternative-politics stream coupling was realized as a result of intensive public consultation that returned positive indications of national mood and preliminary endorsements from the Macdonald Commission. This convergence of positive readings

of national mood and interest group support allowed a comprehensive free trade solution to be formally coupled with the competitiveness problem. The decision to pursue formal negotiations with the Americans then passed through the policy window that had opened to admit new alternatives to Canada's chronic economic problems.

At the Canadian domestic level, various institutional measures were established that minimized jurisdictional impediments in the politics stream and helped to sustain a positive national mood and organized interest support among business and the provinces. Nevertheless, with Canada's high level of trade exposure to the Americans and political investment in the CUFTA process, it was impossible to conceal agreement importance and Canada entered the bilateral talks as the obvious *demandeur*.

Commitment in the US politics stream at the executive level did not translate into agreement importance at the US bureaucratic level. US perceptions of NAA utility during the early rounds were probably the result of considerations of the limited economic gains offered by the agreement. The Americans' competitive negotiating behaviour was consistent with perceptions of a strong non-agreement alternative. By contrast NAA utility was low for the Canadians, not necessarily for economic reasons, but for political ones. A cooperative approach dominated the Canadian bargaining strategy except for attempts to hold out on central issues, in particular investment and trade remedies. Negotiations foundered despite cross-border interventions by Canadian policy entrepreneurs.

With the US deadline for completing the negotiations nearing, Canada abandoned its cooperative strategy and suspended the negotiations. This represents a shift in politics stream assessment of Canada's NAA and marks a substantive turning point away from

settlement. However, the walk out served as focusing event in the US problem stream and galvanized action in the politics stream, putting executive level priorities in closer alignment with bilateral negotiating behaviour. This reassessment resulted in more cooperative behaviour by the US suggesting that their perception of their NAA had also been altered from its initial position. The renewed importance of the agreement for both sides represents a turning point toward settlement. As well, the transition to political negotiators enhanced the capacity of both sides to achieve settlement.

Strategy in the final round of bilateral negotiations found the US operating more cooperatively and Canada able to be more competitive. This helped to facilitate settlement of certain measures important to Canada but Canada was still forced to concede on its most important issue, trade remedies.

Following the successful completion of formal negotiations, further bilateral bargaining was required to finalize the details of the agreement but there was nothing of sufficient significance during these meetings to turn the trajectory away from settlement at the bilateral level. Where the agreement was once more threatened was at the Canadian domestic level. As a result of a block in the Senate, the boundaries between alternative and politics stream blurred and members and former members of the TNO were called upon both for technical support in agreement implementation and political advocacy during the election campaign.

With the election of the Progressive Conservative government for a second term in 1988, the final hurdle toward settlement was cleared. The election allowed the Mulroney government's problem-alternative stream coupling and permitted the CUFTA to proceed to conclusion.

TABLE 4: CUFTA PROCESS TRACING – TURNING POINTS AND WINDOWS	
Trade Policy Review	<ul style="list-style-type: none"> • A range of economic problems are recognized by government. • Options are sought in the alternative stream through analysis. • A policy window for bilateral free trade opens • <u>Limited will for change in the Canadian politics stream</u>
Sectoral FTA Negotiations	<ul style="list-style-type: none"> • Failure of nationalist solutions returns the issue to the governmental agenda. The Liberal government takes moderate steps toward liberalized trade with the US through limited sectoral negotiations..
Feedback and Political Change	<ul style="list-style-type: none"> • Sectoral negotiations stall • Change of government from Liberal to Conservative suggests possibility of reopening policy window for broader free trade but lack of strong political consensus and ideological blockages stand in the way.
Shamrock Summit (March 1985)	<ul style="list-style-type: none"> • Reagan and Mulroney announce intention to seek joint economic solutions. • Turning point towards a bilateral agreement but government has made only cautious preliminary commitment.
Domestic Consensus Building and Public Consultation (April – October 1985)	<ul style="list-style-type: none"> • Strengthened coalitions of support with provinces and business groups clear the way for a formal Canadian commitment to comprehensive free trade.
Bilateral Announcement of Intent to Seek Free Trade (October 1985)	<ul style="list-style-type: none"> • Announcement represents turning point toward settlement • Domestic coalition building has reduced risk for government but increased the commitments made by the government to stakeholders. • While US seeks Fast Track Authority (granted April 1986) Canada strengthens its domestic bargaining resources through institutionalized consultation mechanisms and the establishment of the TNO.
Bilateral Agenda Setting	<ul style="list-style-type: none"> • Significant differences in agreement importance and rules for settlement revealed.

Bureaucratic Rounds (May 1986 – September 1987) <ul style="list-style-type: none"> • Ongoing rounds extend over more than a year, nearing impasse over intractable problems, Canadians look to cross border advocacy to generate support in US politics stream. • Policy entrepreneurship is not sufficient
Suspension of Negotiations by Canadians (September 23, 1987) <ul style="list-style-type: none"> • Canadians declare an impasse • Turning point away from settlement • New problem enters US problem stream demanding political attention • Politics stream considerations of White House priorities and US multilateral objectives • Policy window opens in the US to allow for passage of new configurations of alternative-problem stream.
Gibbons-Gotlieb Proposal Returns Canadians to the Table <ul style="list-style-type: none"> • Cross-border advocacy originating in the Canadian politics stream helps clears the way for the acceptance of a new proposal in the alternative stream (Gibbons-Gotlieb proposal) • US reconsideration of concessions on trade remedies signifies a turning point toward settlement. Canadians return to the table. • Bargaining authority shifts from the bureaucratic level (alternative stream) to political level (politics stream) • Turning point toward settlement
Political Round (October 2-4, 1987) <ul style="list-style-type: none"> • Most outstanding issues are resolved, although weaknesses in Gibbons-Gotlieb require further refinements but is accepted by the United States. Canada accepts less than it sought on trade remedies. • Bilateral settlement achieved.
Domestic Delays (1988 Federal Election) <ul style="list-style-type: none"> • Domestic opposition represents a procedural turning point away from settlement, even though bilateral element is resolved. • Advocacy in the politics stream, policy entrepreneurship, and institutional process management help to maintain domestic consent for the CUFTA.
<ul style="list-style-type: none"> • CUFTA enters into force, January 1, 1989.

The final chapter of this thesis will review the functioning of the multiple streams-synthetic utility bargaining model in the Auto Pact and CUFTA case study applications. The objective of this review is to determine what the multiple streams-synthetic utility framework reveals about trade policy evolution in Canada, and what the two extended case study applications tell us about the utility of the analytical framework.

Chapter 8

Conclusions

Introduction

Multiple streams captures both the structure and fluidity of domestic policy formation. Kingdon compares the process to a river that, because it is constrained by its banks, is prevented from flowing just anywhere.¹ Traditional applications of multiple streams theory have sought to explain how an idea rises on the agenda and is selected as a government policy decision. However, more complex policy development processes, including those in the trade policy field, are often the product of sets of interlinked decisions, especially when the policy in question involves negotiations with another state.² Once the effects of another state's goals and strategies become part of the domestic mix, actors in the politics stream are called upon to make new decisions and review prior ones for coherence under new circumstances and, in the process, a series of domestic streams decisions becomes sequentially linked.

To move beyond simple agenda-setting models, this thesis has argued that multiple streams must take on board additional theoretical propositions. A synthetic utility model of negotiations is a useful addition for two reasons. First it helps to explain how parties in a bilateral negotiation make decisions about strategy and acceptability of

¹ Kingdon, 233.

² We can conceptualize this as the opening of a policy window followed by a series of decision windows that allow the process to move ahead.

outcomes based on subjective assessments of their no-agreement alternatives. Secondly, synthetic utility provides compatible docking points for moving between multiple streams' domestic focus and bilateral bargaining's external focus. For example, the demand for bilateral bargaining originates when a policy window opens and a particular configuration of coupled streams passes through it. Similarly, the bargaining mandate and subjective perception of agreement importance are shaped by the configuration of domestic streams. Determinations of negotiating positions and agreement importance are continually refined within the domestic streams, through sequential decision making, as more information about the other party's demands and responses is brought back from the bilateral table.

The rationale for the addition of bargaining to multiple streams originates within the multiple streams model itself. Kingdon explicitly identifies bargaining as one of the tools of coalition building in the politics stream. The logical inference made in this thesis is that if domestic bargaining shapes the politics stream by creating coalitions of support for proposals and contributes to stream coupling, then the results of bilateral bargaining could similarly affect domestic streams and stream coupling. To accommodate this inference, this thesis has argued that the politics stream acts as the primary channel through which bargaining input is transmitted to the streams processes and vice versa. The politics stream, therefore, becomes the primary site of domestic 'deal-making.' In the review of evidence from the case studies, it became clear that for both domestic and bilateral bargains, decisions about the acceptability of outcomes and the desirability of strategies were made in the politics stream, although influences from both the alternative and problem stream often contributed to politics stream deliberations.

The synthesis of the multiple streams and synthetic utility bargaining models not only extends our ability to apply multiple streams, it also adds explanatory power to bargaining models that are limited by static assumptions about domestic preferences. Where do domestic preferences originate? What causes them to change? These are concepts that have not been well developed in existing models of international negotiation such as Putnam's two-level game theory reviewed earlier. By adding multiple streams we have been able to get a much clearer picture of the domestic origins and continuing influences on negotiating mandates and strategies for the Auto Pact and the Canada-US Free Trade Agreement.³

The application of the combined multiple streams-synthetic utility model to Canadian trade policy provides us with new insights into the related processes of policy decision making and external bargaining. The innovative nature of the model provided new understandings of how Canada-US bilateral trade agreements are formed. Below is a summary of a few of the substantive themes that recurred through the two case studies, although they were not always manifested the same way in each case. The common themes identifiable in both case studies emphasize how the examination of well known case studies through an innovative analytical framework can reveal new insights into the area being studied – in this case, the process of Canada-US trade policy development. Following the thematic review, this chapter will present a discussion of what the case study applications reveal about the coherence and applicability of the model.

³ This outcome is consistent with the objective stated in Chapter 1 of this analysis to develop a model of domestic trade policy decision making that also explains the rationale for bilateral bargaining positions and the conditions under which those positions may change.

Case Study Similarities and Differences

ECONOMIC ASYMMETRY

The element of Canada-US economic asymmetry and Canada's relatively greater dependence on bilateral trade as a source of GDP was an important factor underpinning both cases. However, because of influence exerted by the Big Three as a counterweight in Canada's favour, Canada was not cast in the *demandeur*'s role in the Auto Pact case as it was in the CUFTA. Where size disequilibrium played a notable role in the Auto Pact was in inflating Cabinet concerns about US domination if a continental auto accord came to pass.

AGREEMENT SCOPE / AGREEMENT IMPORTANCE

The Auto Pact was a single-issue agreement, while the CUFTA dealt with multiple issues. The multiple issue negotiations provided greater opportunities for cross-sectoral trade-offs and the accumulation of a balance of benefits for both sides. The lack of opportunity for gains from issue exchange was one of the reasons for the failure of the pre-CUFTA sectoral negotiations. However, the Auto Pact, as a single sector agreement, was able to survive because of relatively equivalent interest in the issue on both sides of the border.

POLITICAL LEADERSHIP

Related to the subject of agreement importance is the issue of political leadership. Canadian political leadership was all but absent in the Auto Pact but was very strong in the CUFTA. The force of leadership in that case was also significant in that it helped to paper over gaps in domestic support and resolve bilateral tensions as well.

ISSUE VISIBILITY

The Auto Pact was almost entirely negotiated out of the public domain with input from a very few, largely cooperative stakeholders. The CUFTA faced a great deal of external scrutiny with a large number of direct and peripheral stakeholders. The public visibility of the latter issue increased the possibility of negative political impacts if the agreement failed. To extrapolate from these historic cases to the present, the Canadian government's current commitment to public consultation in trade policy formation, suggests that we can expect the public visibility dynamics at work in the CUFTA politics stream to be repeated in the future for agreements of importance to Canada.⁴

SUMMARY – CASE SIMILARITIES AND DIFFERENCES

In reviewing a few of the dominant themes in the case studies – economic asymmetry, agreement scope and importance, and issue visibility – a number of similarities and differences have been highlighted. The similarities show that it is possible to make some generalizations about the trade policy development process providing that one has sufficient information about the context and the individuals involved. The differences between the cases are equally instructive in that they reinforce the fact that trade policy development is a complex process, and small differences in process or structure can make big differences in the final outcome.

Just as the use of a new analytical framework produced novel insights into relatively well-known case studies, so too does case-study application help to refine and evaluate the analytical framework. In order to assess the coherence and explanatory

⁴ The challenges of public participation in the formation of Canadian external trade policy are discussed in Denis Stairs, "Foreign Policy Consultations in a Globalizing World: The Case of Canada, the WTO, and the Shenanigans in Seattle," *IRPP Policy Matters* 1:8 (December 2000).

power of the analytical framework, the balance of the chapter will look first at the extent to which claims made in the analytical framework were supported by the evidence provided by the Auto Pact and CUFTA case studies. Next, the chapter will move to a summary of new insights derived through the multiple streams-synthetic utility framework as well as a brief discussion of outcomes that challenged the model and could be taken up as areas for future research. The chapter will conclude with a discussion of the multiple streams concepts of historical contingency, individual action and adaptation to evaluate their importance to the policy cases presented in this thesis.

Analytical Framework Review - Claims and Evidence

The hypothesis presented in Chapter 3 claimed that: *The reciprocal processes of bargaining and stream coupling form an incremental and progressive cycle of policy content development.* This argument was elaborated in this thesis through three central theoretical propositions that became the core of the analytical framework.

The first major proposition stated:

The complex processes leading up to the decision to negotiate a bilateral trade agreement shape and constrain what is possible in the negotiations themselves. These processes are the product of specific couplings of the problem, alternative and politics streams.

In each of the case studies examined it was possible to identify how the specific configuration and coupling of problem, politics and alternative streams created the conditions under which Canadian policy makers decided to negotiate bilateral trade

agreements with the United States and how these same streams processes also informed the mandate and strategy that the Canadian negotiators took to the bilateral negotiating table.

In the Auto Pact case, a problem of imminent market closure was coupled with the alternative of a bilateral auto accord. Although paper thin at times, sufficient politics stream support was marshalled to hold this coupling together. The alternative to agreement was poor for Canada. However, the risk associated with the adoption of such an unprecedented type of industrial arrangement was such that Canada felt compelled to insist that a few core conditions be met and maintained a competitive strategy in order to achieve them.

In the CUFTA case, a set of complex economic problems was coupled with the solution of a comprehensive free trade agreement with the Americans. A considerable amount of political leadership helped to overcome gaps in domestic support in order to hold the coupling together. However, the government's investment in the free trade initiative also increased the agreement's domestic importance and profile. This contributed to a poor perceived NAA and generalized adherence to a cooperative bargaining strategy.

The multiple streams-synthetic utility framework emphasized the role of the politics stream because the existence of a problem-alternative set is no guarantee of a proposal's success or even serious attention by government. The success of a proposal is determined in the politics stream by the amount of support that can be generated for it. Of the three determinants of change in the politics stream: government turnover, national mood, and the role of organized interests, this thesis identified government turnover as

being a particularly strong contributor to change in both of the case studies. The degree of issue support that could be generated among organized interests was also critical to a proposal's success, although in the Auto Pact case study only the stakeholders from the Big Three played a determining role. This was attributed to the fact that the policy development process was shielded from public visibility and contrasted with the high degree of public exposure of the prospective CUFTA. As predicted, national mood provides an indication of "fertile ground"⁵ for change but did not on its own precipitate change unless combined with other politics stream factors such as government turnover or support by organized interests.

Higher levels of issue visibility can be accompanied by greater vulnerability to shifts in public support. The CUFTA process required that the government exert considerable efforts to consolidate fragmented coalitions of support across regions and interest groups. Because of the increased coalition-building demands and the technical nature of the issue, a high level of bureaucratic participation in the politics stream was evident in the case study, despite the model's identification of bureaucratic actors (policy community members) – as functioning primarily in the alternative stream. Nevertheless, Kingdon does not discount this possibility: "In fact, policy specialists do not have a monopoly on persuasion; nor do politicians have a monopoly on bargaining."⁶

Both bargaining and persuasion were evident in the contribution of policy entrepreneurs such as George Ball and Derek Burney who worked in the politics stream to create support for their proposals. Such entrepreneurs are identified not only as

⁵ Kingdon, 147.

⁶ Kingdon, 160.

individuals willing to advocate on behalf of an issue, but who are also willing to link their professional reputations to high-risk issues.⁷

The multiple streams-synthetic utility framework described how the coupling of a recognized problem and governmental will to act on the problem serves to open a policy window through which a coupled problem-solution may pass. In our case study applications we saw clear evidence of such coupling prior to the government's decision to negotiate the Auto Pact and the CUFTA. We also saw instances of incomplete coupling in the Auto Pact case. A problem with auto sector competitiveness had been recognized and elaborated on in the Bladen Report and alternative stream recommendations were produced, but conditions in the politics stream were not right to allow for complete stream coupling and a radical change of policy under the Diefenbaker government. Rather than act on Bladen's recommendations, the Diefenbaker government implemented very moderate reforms instead. In order to explain the government's failure to make decisive change, the analysis returned to the agenda distinctions made in Kingdon's model, arguing that a problem-alternative coupling had found a place on the governmental agenda – the set of subjects to which the government is paying some attention – but not to the decision agenda – the set of subjects on which the government is prepared to take decisive action.⁸ Later, when the problem became more compelling through the imposition of US countervailing duties, and government turnover in the

⁷ Other policy entrepreneurs identified with this thesis include Canada's Simon Reisman, Allan Gotlieb, Brian Mulroney, and Bud Drury. US actors include James Baker and Phil Trezise. To a greater or lesser extent each of these individuals can be identified as willing to invest time, resources and professional credibility in the success of an issue. See Kingdon, 122.

⁸ Kingdon, 4.

politics stream put the Liberal government into office, then stream coupling moved the issue onto the decision agenda of the new government.

Once a decision to negotiate bilaterally was made, the analytical framework predicted that streams dynamics would shape the mandate that negotiators took to the bilateral bargaining table. The negotiators' mandate serves to set the broad goals to be achieved, and delimits the set of negotiated settlements that would be consistent with the objectives of the politics stream. Streams processes also influence the government's perception of agreement importance based on the beliefs of political decision makers about what the future would hold absent an agreement. This no-agreement alternative assessment defines the dominant strategy to be employed and decisions about whether to cooperate or compete are based on the decisions made by leaders as to whether they could afford to abandon a prospective agreement.

In the CUFTA case, a broad negotiating mandate for a comprehensive agreement was progressively refined through successive negotiating rounds as new information was received at the bilateral table. Particular conditions in the CUFTA were shaped by the demands of domestic stakeholders, provinces, and other federal departments whose support for the agreement had to be maintained to facilitate domestic acceptance of the final agreement.

In the Auto Pact case, the process of setting the mandate came about generally as predicted but with a few qualifications. First, divisions within the politics stream at the Cabinet level threatened to erode the negotiating mandate even as the bureaucratic negotiators were at the bilateral table working out a potential settlement. When the negotiators returned to report near fulfillment of their mandate, the rules of the game

seemed to have changed and it was not clear what settlement, if any, would be acceptable to Cabinet. Ultimately, internal politics stream coalition building served to reinforce the original mandate for the negotiators.

The second qualification in Auto Pact mandate setting has to do with the prediction made in the analytical framework about the existence of desirable no-agreement alternatives that would define the dominant national bargaining strategy. This assertion had to be refined in the analysis in Chapter 5 in light of the particular circumstances of the Auto Pact. Even though Canada had a very poor no-agreement alternative, an agreement that failed to meet certain minimum conditions would have been worse than no agreement at all because of the level of commitment and investment required to put the flawed framework in place. Paradoxically, no agreement was superior to an agreement without conditions. This improved the utility of the no-agreement alternative and provided a logical rationale for more competitive bargaining despite a poor NAA. In more intuitive terms, Canada thought it was better off walking away from an inferior deal and taking a chance on fate than accepting a deal that lacked the minimum conditions it had defined for success. Canada, therefore, used a competitive strategy to the extent that it would not yield on the minimum conditions it sought. It was, however, cooperative in other areas not related to these conditions where joint problem solving and value creation was required.

These case study applications reinforced the dynamic nature of no-agreement alternative assessment and its relationship to strategy. NAA determination is heavily reliant on subjective perceptions. The ideas, values and beliefs that are dominant in the domestic streams have a direct effect on bargaining strategy. Accordingly, when we saw

evidence of changing NAAs in the case studies, the material conditions likely to influence negotiations seemed to have changed very little but what had changed was the interpretation of these conditions by actors in the politics stream. One such example is when Canadians suspended the CUFTA negotiations. The decision to suspend reflected a shift in the Canadian NAA with Mulroney's calculation that no agreement was preferable to a poor agreement. At the same time, the US became more cooperative because the suspension triggered increased recognition of the political and international ramifications of a failed agreement in the US politics stream. The important point to emphasize through these examples is that the relative location of the NAA (as well as the reservation outcome) can shift with considerable frequency during the bargaining process. When such shifts occur, some new possibilities for negotiated settlements may be added while others are eliminated.

The second major proposition contained in the analytical framework stated:

Streams dynamics similarly shape and constrain the need for, and the results of, the domestic bargaining that takes place to build coalitions or to solve problems that cannot be dealt with through a bilateral agreement alone.

As mentioned already, the case study applications in this thesis confirm the integral role of politics stream bargaining and coalition building to create domestic policy outcomes. Politics stream bargaining both provides input to the bilateral table and plays a role in solving problems that cannot be resolved at the bilateral level alone. We saw clear evidence of the latter during coalition building to build support for the inclusion of industry in the Auto Pact and the acceptance of the Gibbons-Gotlieb proposal in the

CUFTA. Through the examination of these examples, however, something new was also provided to the analysis as it became clear that building coalitions in support of finding alternative solutions to bilateral problems, and actually solving these bilateral problems were not the same thing. In our case examples, problem solving often necessitated a return to the alternative stream and the policy community operating within it in order to construct new solutions and test them for feasibility. In the creation of a framework for industry inclusion in the Auto Pact and the binational review panel in the CUFTA, there was considerable linkage between politics and alternative streams to create alternatives and generate support for them. As was noted in both cases, it was sometimes difficult to determine where proposal formulation in the alternative stream ended and coalition building for the acceptance of the proposal in the politics stream began.

This thesis also proposed an extension of multiple streams beyond Kingdon's original framework. In order to provide an enhanced view of bargaining, it was suggested that actors attempting to build coalitions (or being invited to join a coalition) would base their decisions on subjective assessments of NAA utility, similar to what has been identified as taking place in bilateral bargaining. The results of case study applications provide guarded support for this assertion. In the Auto Pact case, we discussed the importance of an agreement to the Big Three and provided evidence of the auto makers' consistent cooperation and support for Canadian policies, even when the policies shifted direction from nationalist to continentalist in nature.

Other examples of coalition building and strategic decision making based on subjective assessments of agreement utility can be located within the participation in the CUFTA of Canadian business organizations and provinces. Many of these organized

interests came on board to support the CUFTA decision and advocate on its behalf, but not until they were convinced that their alternative to a bilateral agreement was poor, their future interests were tied to a successful trade deal, and that the government was serious about the initiative.⁹ These examples underscore Kingdon's observation about the importance of timing in joining a bandwagon in order to maximize available gains. Some of the bargaining examples that emerged in the case studies provided explicit examples of *quid pro quo* bargaining – such as the provinces offering to support CUFTA on the condition that they receive a seat at the bilateral bargaining table. The evidence in this thesis confirms the assertion that politics stream bargaining mirrors bilateral stream bargaining in terms of calculations of interests and strategies based on available alternatives. However, these conclusions warrant further research on internal bargaining to include more detail on the interests and positions of stakeholders and potential gains from exchange of concessions.¹⁰

The multiple streams-synthetic utility framework also predicted that there would be some differences between bargaining in the domestic politics stream prior to a government decision to negotiate with another state and the bargaining at the bilateral level that is the manifestation of that decision. In the case studies, the biggest difference arose in the scope of the negotiating mandate of actors. Based on available evidence, it

⁹ Recall, for example, how provincial premiers offered only tentative support for comprehensive free trade until coalition building combined with policy entrepreneurship on the part of certain premiers produced a more definitive expression of support.

¹⁰ The literature on the use of side-payments in bargaining could be instructive in this area. See for example, Frederick W. Mayer, "Managing Domestic Differences in International Negotiations: The Strategic Use of Side Payments," *International Organization* 46 (Autumn 1992), and H. Richard Friman, "Side Payments Versus Security Cards: Domestic Bargaining Tactics in International Economic Negotiations," *International Organization* 47 (Summer 1993).

can be inferred that before a major decision¹¹ is made, policy entrepreneurs are freer to promote favoured proposals in ways they deem most effective, but after the major decision is made and negotiations are launched bilateral actors are more constrained by the content of government's negotiating mandate, and their status as representatives of their respective states. There does not, however, appear to be much difference in the effectiveness of the bargaining, pre or post-decision, even though the terminology used for analysis is slightly different. If a policy entrepreneur is promoting a proposal that is consistent with the prevailing direction of the bandwagon, or if a bilateral negotiator is negotiating with a partner who has a poor alternative to a negotiated settlement, the bargaining is likely to be more productive in either case. By contrast if a policy entrepreneur is working in opposition to the prevailing conditions in the politics stream or with a partner who has a very good alternative to negotiated settlement, the bargaining is less likely to be productive.

The added dynamic of cross-border advocacy in the politics stream was introduced to the analytical framework in order to integrate bilateral bargaining and domestic streams processes more effectively. Examples of this type of advocacy include George Ball's appeals to Paul Martin Sr. in the Auto Pact, and Allan Gotlieb's interventions with members of Congress in the CUFTA. What is evident from the cases in this thesis is that, just as with other forms of bargaining, timing is crucial. The other side must be receptive or requests for support will fall on deaf ears. Before the United States extended the imposition of CVDs to all Canadian auto exports, appeals for

¹¹ The use of the term "major decision" is intended to distinguish the key initial decision to negotiate a new agreement from the subsequent decisions regarding domestic review of bilateral progress.

Canadian cooperation were not very successful. After this new problem materialized, Pearson was more inclined to listen to Johnson, Reisman to Linville, and so on down the line.

The third and final proposition presented in the analytical framework stated:

The results of bargaining – bilateral and domestic – feed back into the domestic politics stream where they may influence the nature of streams or the dynamics of stream coupling.

We have discussed how, when bilateral negotiations cease as a result of an impasse or simply because of a scheduled break in the proceedings, negotiators return to consult with domestic decision makers in order to refine their mandates based on new information. During this politics stream review, decision makers attempt to ensure that the mandate is being met and that the strategy being used is effective, and make necessary modifications if required.

In order to better analyze how the main responsibility for policy development shifts back and forth from the external bilateral level to the domestic streams level, the analytical framework in this thesis used the interpretive concepts of process tracing. Tracing the process of policy development through turning points toward or away from settlement provides a framing mechanism that is useful for containing both the domestic streams and external bargaining processes. The politics stream serves as a point of departure for decisions moving from the domestic streams to the bilateral level, and a point of entry for bilateral outcomes returning to the domestic streams for political assessment. In either case, the passage from one level to the next is associated with a

policy window, either about to open because a domestic decision is needed regarding bilateral events or already open and yielding a domestic decision that shapes subsequent events at the bilateral level. Movements in either direction can also be precipitated by a crisis moving the process away from settlement or a resolution moving the process back toward settlement.

Druckman's argument that bargaining crises can sometimes contribute to settlement has been echoed in this thesis. Within the case study examples, we observed several instances where one party but not the other recognized a problem at the bilateral table. It was very difficult for negotiating teams or policy entrepreneurs to elicit any change from the side that did not recognize the existence of a problem. However, when a crisis occurred (or was orchestrated), such as the US extension of automotive CVDs or the Canadian suspension of CUFTA talks, the crisis served to focus the attention of politics streams decision makers from both sides on the problem and possible remedies.

During the periods where bilateral negotiating progress is being reviewed at the domestic level, the multiple streams-synthetic utility model predicted that the dominant perception at the political level would be that if the negotiating mandate was not being fulfilled, then a change of mandate or strategy was required. If it was being fulfilled then no change was required. Events away from the bilateral bargaining table (domestic or international) could also lead politics stream decision makers to revise their assessments of mandate or strategy.

In the Auto Pact case, as we have already discussed, Canadian negotiators were progressing well bilaterally but narrowly missed having their mandate substantially altered or having the negotiations cancelled altogether as a result of second thoughts

within Cabinet about the wisdom of negotiating with the Americans. In the CUFTA we saw a similar situation with the American political leaders affirming Murphy's mandate through months of non-productive negotiations, but changing their position after domestic and international pressure caused them to revise a strategy that had, until then, served the Americans successfully.

At the final stage of the bilateral bargaining and domestic decision making cycle, the analytical framework predicted that if domestic streams processes have been successful, then parties would be able to return to productive bilateral bargaining. In the case studies, we observed evidence of a return to productive bargaining when domestic streams helped to facilitate the solution of a problem that could not be resolved at the bilateral table. By contrast, we also encountered instances where domestic streams efforts, such as US cross-border advocacy after the CUFTA suspension failed, initially, to bring the Canadians back to the table. More than just cross-border advocacy was required; the Canadians also needed an alternative stream trade remedies proposal with which to build their confidence in the possibility of settlement with the Americans.

In summary, the analysis used in this thesis has depicted a cyclical model of outcome creation that is the result of reciprocal and repeated interactions between domestic streams and external bargaining. Through this approach, the process of policy development is permitted to be both fluid – dependent on chance and opportunity – but also structured and predictable to the extent that we understand the rationale for the tools employed and the actions taken. What this framework also helps us to illustrate is that domestic processes do not stop when the major decision to negotiate with an external trading partner is made. By integrating Kingdon's conception of domestic streams

flowing more or less independently but coupling at strategic instances, it becomes easier to understand why bargaining mandates and strategies change with time and circumstances - how terms that were unacceptable to political decision makers at one point in the process are acceptable later on and vice versa. The results of bargaining feed into the domestic streams and, in doing so, change the streams, but the results of the domestic streams processes can have a similarly transformative effect on external, bilateral negotiations.

Outputs and Anomalies

This thesis has attempted to expand existing knowledge of multiple streams and synthetic utility bargaining models through application across time and across cases and to draw insights from the interaction of the two models that could not be derived from the application of either framework on its own. The results of this endeavour have been rewarding to the extent that the case studies not only reinforced the predictions made in the model but also provided new insights that went beyond the initial predictions and expanded the range of significant dynamics to consider in similar types of analyses. Along with the successes, there were a few instances noted in the case studies where the results deviated slightly from what was predicted in the framework. Alternative explanations have been set out – in the chapters where they occurred and also below – but the identification of such anomalies suggests the need for future work to enhance the explanatory power of the analytical framework. We begin with a review of the outputs.

Contributions of the Analysis

At the conclusion of the analysis, this thesis has been able to provide:

- A framework for understanding the reciprocal effects of bilateral bargaining and domestic streams processes;
- An explanation of how the process of policy development evolves as the initiative for defining and refining objectives shifts back and forth between the domestic and external levels;
- An expanded understanding of bargaining in the politics stream that goes beyond the original multiple streams model;
- Identification of potential differences in outcomes if stream coupling is incomplete and a proposal reaches the governmental agenda but not the decision agenda;
- Identification of differences in the scope of individual action before a decision to negotiate is made versus after such a decision is made; and
- Recognition of the overlaps between the alternative and politics stream when problem solving is required or when the technical expertise of the policy community is needed to support politics stream coalition building.

Refinements of the Model

In spite of a number of new insights, there were a few anomalies in the case studies at the level of strategic negotiating behaviour that challenge the predictions made by the synthetic utility model. The model predicted that parties with a poor NAA would bargain

cooperatively. Why, then, did Canada negotiate competitively in the Auto Pact and in the CUFTA (after the suspension) when its NAA was poor in both cases? The second question, following from the first, is that if Canada was willing to risk the CUFTA in order to achieve certain conditions such as limitations on US trade remedies, why did the country's negotiators ultimately accept an agreement that did not meet this condition? These two questions are examined below.

(1) Explaining Competitive Behaviour in Spite of a Poor NAA

This thesis has argued that bargaining behaviour (cooperative or competitive) is influenced by the subjective utility of one's own NAA. A good NAA will allow for more competitive behaviour such as making greater demands and refusing to yield, because the future absent a negotiated settlement would not cause a great deal of upset in the domestic politics stream. Conversely, a poor NAA necessitates more cooperative behaviour such as making relatively lighter demands and offering concessions more readily because the alternatives to a negotiated settlement are perceived to be poor by decision makers in the domestic politics stream.

Changing behaviour involves changing assessments of subjective utility through:

1. Actions that improve the subjective utility of your own NAA.
2. Actions that worsen the subjective utility of your own NAA.
3. Actions that worsen or improve the subjective utility of your opponent's NAA.

Although linked to actions or events, it is important to keep in mind that utility assessments are rooted in human perceptions. Thus, changes may be driven by events, new information, persuasive arguments, or any inputs that bring about second thoughts in the minds of decision makers.

If negotiators are bargaining competitively when the utility of their NAA signals that they should be bargaining cooperatively, how can we explain the negotiator's anomalous behaviour?

1. One explanation is that the negotiator is not fully aware of his/her own positions and interests. This explanation is possible, but not likely within the context of the highly researched and professionally negotiated bilateral trade cases under examination in this thesis.
2. A second explanation is that the negotiator's behaviour is based on a *relative* assessment of the opponent's NAA. Even though the negotiator's NAA is poor, he believes that the other side has a worse NAA than he does and will be less inclined to put the agreement at risk. This explanation is plausible but inferior. First, it requires that we go beyond the synthetic utility model from which we have been operating which is based on a negotiator's assessments of his/her *own* NAA utility. Secondly, acceptance of the relative assessment argument requires that the negotiator have a great deal of knowledge not only about his/her own position and interests but an almost clairvoyant knowledge about the other party's interests as well.
3. A third and more convincing explanation is the one that was called into play in the current case study analysis to demonstrate how a poor NAA is actually

superior to certain types of settlements that could be made. This was the case in the Auto Pact, for example, when negotiators and politicians considered the implications of an Auto Pact for Canada that did not include sufficient transition time and guaranteed investment provisions. Negotiators believed that Canada would be worse with an agreement that did not include the essential conditions than it would be with no agreement at all because of net losses incurred to restructure the sector in anticipation of a new program. It follows then that where there is an outcome that is worse than no agreement at all, the subjective utility of no agreement actually increases relative to that outcome and, as the model tells us, an improved NAA utility provides a credible basis for competitive bargaining.

The refinement respecting strategic choice that can be made to the synthetic utility model is that when the alternative to agreement is poor but an agreement absent certain conditions is worse, negotiators must bargain competitively – at least in attempting to fulfill certain key conditions. On other matters, negotiators may use a more cooperative strategy if they do not wish to put the prospective agreement at risk for non-essential conditions.

(2) Explaining Why Competitive Bargainers May Capitulate in the End Game

The Canadian negotiators had held out from the outset in order to achieve a trade remedies code in the CUFTA and had political support for competitive bargaining after Mulroney agreed to the Canadian suspension of talks. However, after negotiations resumed, the Canadians diluted their trade remedies demands and accepted a significantly

watered-down compromise position. Why the switch from competitive to cooperative bargaining in the end game? According to the synthetic utility model, no-agreement alternative assessment is derived from a comparative assessment of the utility of an expected agreement. If expectations change, then utility changes and so does strategy.

The central focus of the NAA is traditionally framed as an assessment of the future absent a bilateral settlement. However, as the negotiation progresses, the dynamics of assessment seem to undergo a subtle shift. Elements of a possible settlement take shape and become more tangible. Rather than abstract thinking about the future presence or absence of an agreement writ large, negotiators (and their political masters) begin to more closely evaluate the specific terms of the agreement under discussion. We can infer that with an agreement close at hand, it is quite likely that the lure of what is on the table will become more attractive and more difficult to abandon.

After the terms of an agreement begin to take shape, strategy may be based less on the prospects of the future absent an agreement (often a return to the *status quo*) and more on the utility of the terms of the prospective agreement as they have been developed through the bargaining process. As some, if not all, elements of a prospective agreement become more attractive in the minds of decision makers, the utility of no-agreement worsens and negotiators logically tend to favour a more cooperative strategy. This dynamic is consistent with what is predicted in the synthetic utility model.

What is original in this approach is that traditional conceptions of synthetic utility are tied to assessment of the *status quo* i.e. the future without an agreement.¹² Here it is

¹² In Odell (2000a), for example, it is argued that the complexity of negotiations and incomplete information require that negotiators rely on cognitive judgements based on "handy available reference points rather than canvassing comprehensively and making elaborate calculations" (214). However, Odell

being suggested that the more detailed the provisions for a future agreement become, the more these possibilities at hand affect assessments of future utility and also strategic decisions about whether to cooperate or compete. It is argued here that as bargaining progresses and an agreement becomes more tangible, the assessment of the benefits of a prospective agreement are at least as influential on strategic choice as the assessment of the utility of no agreement at all.

The case studies in this thesis (Auto Pact and CUFTA) both provide examples of national bargaining teams relenting on previously fixed conditions (switching from competitive to cooperative strategies) as negotiations neared the end game. Canada was more willing to accept the trade remedies compromise rather than hold out for a more rigorous agreement in the CUFTA. Similarly, the United States was willing to capitulate on time limits in the Auto Pact, rather than lose the agreement so close to settlement. In both cases, these decisions were made when the benefits of a prospective agreement were more clearly defined and closer at hand than they had been when the initial NAA assessments to bargain competitively had been made.

This line of argumentation reinforces the flexible dynamics affecting strategy. Case study evaluations of bargaining tend to portray the NAA as rather fixed from the period of initial assessment through to the end game. Negotiators are depicted as playing out the logical trajectories of the strategy given by these early assessments. With explicit recognition of NAA flexibility, it is more clearly emphasized that strategies change

asserts that the cognitive judgements of negotiators will be biased towards competitive bargaining. There is counterfactual evidence from the US actions in the Auto Pact and the Canadian actions in the CUFTA that negotiators may tend toward cooperation during the end stages of negotiations when the lure of a final settlement and the conclusion of a successful agreement provide greater perceived utility than a failed negotiation.

during the negotiation process, that strategic choice is related to perception of gains, and that these perceptions change and mature as the process unfolds.¹³

Summary

In the case studies we saw both of these anomalous situations played out. In the Auto Pact and CUFTA case studies we saw Canada negotiating competitively despite a poor NAA. This deviation from what was predicted in the model was explained in Chapter 5 as resulting from the inclusion of credible commitments to particular conditions that were necessary if the Auto Pact was going to be worth the risk for Canada. This strategy worked for Canada, despite its poor NAA, because the United States maintained a cooperative bargaining strategy through to the end of the negotiations.

In the CUFTA case, Canada only managed to hold onto a single condition. There, a poor NAA applied and Canada appropriately bargained cooperatively, except for holding out on trade remedies. Since the US NAA was not dire in the CUFTA, the US negotiators bargained competitively throughout the early and middle rounds of the process, becoming more cooperative only after US political interest was re-ignited by Canada's suspension of negotiations. However, US cooperation would not extend to the provision of a joint subsidies code that was acceptable to Canada. With the possibility of a settlement close at hand, Canada was forced to re-evaluate the rationale for its trade

¹³ In some ways this conception is similar to the strategic flexibility offered by two-level games but in that model strategy is altered on the basis of changed perceptions by domestic constituents; what they are willing to ratify permits a change in strategy, not assessment of the prospective benefits of the agreement.

remedies condition and determine if this condition could be diluted or eliminated in exchange for a completed deal.

In light of the fact that more than a year and a half had passed since the original negotiating mandate had been struck, the Canadian re-evaluation of their original condition makes sense. Yes, trade remedies had been an initial priority and an important part of early problem definition and issue framing, but since the negotiations began, the expectations of the public had been focused on progress as a result of concentrated media attention. The CUFTA had become an issue with important political implications for the government. While Mulroney was willing to abandon the negotiations if necessary, the rest of the bilateral framework that had been negotiated to serve other aspects of Canada's commercial interests would have to be abandoned as well. As well, the good faith provisions and binational review process offered by the US as a compromise provided a basis for future work and a multi-year window in which to make progress. If not everything Canada sought, these provisions provided some degree of political cover to justify capitulation on a key issue. In the end, a new configuration of politics-alternative stream coupling produced a new decision that overturned the original negotiating mandate, which had itself been the product of earlier stream coupling.

What this example shows us is that the synthetic utility model on its own provides a rather static account of negotiating strategies and behaviours based on fixed perceptions of interests. Strategies that are determined on the basis of an NAA may move, but the reasons for NAA movement are rather underdeveloped within synthetic utility theory alone. With the addition of multiple streams theory, we have a more satisfying account of the domestic processes that set negotiations off in one direction initially and would later

cause the course to deviate in response to new conditions. Synthetic utility tells us that calculations of interest may change as new bargaining resources are added or subtracted. Multiple streams, by contrast, tells us that the interests themselves may change and what is likely to precipitate change.

Refinements of the Model and Conditions for Future Use

Conditions of model applicability

In Chapter 1, the use of Auto Pact and CUFTA as initial cases for testing the multiple streams-synthetic utility model was justified on the basis that these cases not only present multi-dimensional examples of Canada-US trade policy development processes, they are themselves two integral parts of a larger process of evolving bilateral trade relations in which the former case is a precursor to the latter. Nevertheless, having provided strong initial evidence of the explanatory capacity of the analytical framework used in this thesis, it is also possible to apply this framework to other cases in order to refine and expand the initial insights it has provided.

Kingdon's model identifies a number of necessary conditions that must be present for an idea to reach the decision agenda. The necessary conditions that are required for application of the current multiple-streams synthetic utility model are related to the nature of the problem it tries to explain. As discussed in the preceding chapters, there are two central problems that served as a starting point for the research in this thesis. First, bargaining dynamics take place both at the external and domestic level. Secondly, policy outputs are not simply the product of a single decision but multiple, sequential decisions with actor inputs from both the alternative stream and the politics stream.

Thus, any other cases to which the model could be usefully applied would have to be based on a similar problem structure. This problem structure implies the existence of a number of contributing conditions.

- a) The presence of both external and domestic decision dynamics (including although not limited to bargaining);
- b) Sufficient political interest (and competition among interests) to engage the politics stream and contribute to the stream coupling that drives the model;
- c) Technical sufficiency of the problem, i.e. some element of idea diffusion and alternative specification in order to engage the alternative stream and contribute to the stream coupling that drives the model;
- d) Outcome uncertainty in order to provide a basis for the dynamics of bargaining and coalition building. This is rooted in the proposition that perceptions and therefore interests change, exerting a considerable influence on bargaining dynamics and strategy.

Based on these conditions, it is easy to see a number of other cases both inside and outside of trade policy where the analytical framework could successfully be applied. These would include the Canada-Chile Free Trade Agreement and various non-trade agreements such as the Smart Border Accord and Boundary Waters Treaty.

The act of setting out conditions for the use of the model, implicitly acknowledges the falsifiability of the model. As Popper warned, one of the dangers of creating broad ranging explanatory models is that by explaining everything, they explain nothing

because they can only be applied to a single case. The converse of this is that models attempting to be universally applicable tend to be based on hypotheses that yield relatively trivial conclusions.

The conditions proposed above confine the research agenda to a finite set of cases and exclude others. Among the cases that would *not* be appropriate for the framework are cases where a policy was the result of purely technical or administrative processes – perhaps part of a built-in implementation agenda of a prior decision – and was not of sufficient importance to engage the politics stream and precipitate stream coupling. Another case that would not be appropriate for multiple-streams-synthetic utility analysis is one that lacked the condition of outcome uncertainty. While the model is not limited to trade policy applicability only, the results of most trade agreements are sufficiently indeterminate because it is not possible to predict with mathematical certainty what the outcome will be. Actors calculate their actions on the basis of perceptions of whether they are likely to be among the winners or losers in a prospective agreement and bargain to improve or consolidate their positions. In such cases where winners and losers can be predicted with certainty, government actions are focused more on compensating sure losers rather than building coalition of policy support among interested stakeholders. Unless there are available alternatives of variable utility in the alternative and politics stream interest in exploring these alternatives, multiple streams and its associated frameworks can provide few insights into process.

While holding constant the core assumptions (decisions based on the coupling of streams and the opening of policy windows; sequential decision making, bargaining at multiple levels, the politics stream as the site of domestic bargaining and the gateway for

external bargaining), it should be possible to improve and refine the multiple streams-synthetic utility framework as well as to modify it by adding other theories of bargaining and strategic interaction to using the multiple streams “docking” mechanisms supplied by this model.

Areas for future work

Three questions emerge from the necessary conditions proposed for use of the framework and the prospective cases provided as examples: Could the framework be applied to cases that did not result in a successful agreement? Could the framework be applied to non-Canadian cases? Could the framework be used in cases where states are involved in multilateral, not bilateral, bargaining? The following section addresses these questions.

On the first question, it is argued that the framework could readily be applied to cases that did not result in a successful agreement. In Chapter 2, this thesis argued that multiple streams and synthetic utility help us to the conditions that set the stage for certain events to take place and the strategic drivers that shape these events in the domestic streams. The framework also provides us with a methodology of turning points with which to track events moving a process toward or away from settlement. Process tracing that is attentive to turning points and the structural and behavioural factors contributing to turning points will help analysts determine with a fair amount of precision when a negotiation began to founder and why. It will help to identify whether the bargaining failure came as a result of changes within the domestic streams or changes in a negotiators perception of no-agreement utility at the external level, or both.

As to whether the framework could be applied to non-Canadian cases, this question was actually dealt with in Chapter 2 of this thesis where the applicability of multiple streams to various national decision making structures was introduced. The refinements to multiple streams and addition of bargaining propositions do not alter the framework's applicability to, at least, presidential and parliamentary systems where multiple streams has been extensively applied. The reconsideration of the question, however, brings to mind the considerations raised by Mucciaroni and Blankenau regarding the importance of adding middle-level propositions to understanding the nuances of national decision making structures. It was suggested in this thesis that Canada's fusion of powers and federal system versus the United States separation of powers and Congressional dominance exerted distinct influences on the pace and nature of decision making and the behaviour of actors. None of these national differences affected the validity of the general propositions regarding stream coupling and utility assessment but they did serve as markers during the case study analyses, identifying salient factors within the politics stream and behavioural triggers for negotiators. Therefore, in future applications, analysts will find their work is made easier by early attention to the mid-level dynamics of national decision making structures in order to understand the pace and nature of stream coupling within a specific national context.

The third question is whether the framework could be used in cases where states are involved in multilateral, not bilateral, bargaining. Such cases would include the trilateral North American Free Trade Agreement and various negotiating rounds of the multilateral GATT/WTO. The answer to this question is guardedly positive. Overall, the analytical frameworks that exist for multilateral bargaining analysis tend to be more

descriptive than predictive. Those that do focus on strategic interactions and outcomes tend to reduce the multilateral setting to issue dyads – who is for and who is against. By ‘bilateralizing’ multilateral bargaining in this way it is possible to then utilize two-party strategic frameworks such as synthetic utility. Whether or not one uses a two-party framework or some other model, there are few limitations on the sort of bargaining theory that could hypothetically be linked to multiple streams, provided that basic assumptions about bounded rationality and stream coupling were met. What the synthesis of an external bargaining framework and a domestic decision making framework provides is a much more nuanced understanding of the domestic influences on external bargaining and the ways that these domestic conditions can change.

Some of the bargaining theories that could be linked to multiple streams include some versions of game theory that permit repeated games and have relaxed assumptions about rationality and information and Druckman’s threshold adjustment bargaining model described in Chapter 2. Even without a change of bargaining framework, there are a number of areas where the multiple streams-synthetic utility framework could be elaborated. In particular, the results of the current analysis suggest that further work should be done to evaluate how negotiators nearing completion of the negotiation might measure the utility of prospective agreement against utility of no-agreement. What are the implications of this additional variable to negotiating results? A second area from this thesis left open for future work is a more thorough analysis of the role of the policy entrepreneur, especially with respect to enhanced propositions on the timing and utility of cross-border advocacy within the politics stream of the other party. Although by no means exhaustive, this brief overview of a future research agenda suggests that the initial

framework presented in this thesis only touches the surface and, in approaching an explanation for one set of dynamics, a whole host of other issues has been introduced.

Conclusion

Multiple streams allows us to model the first steps of a process that moves ideas up the agenda through stream coupling and the opening of policy windows. Bargaining allows us to understand the bidirectional transmission belt between domestic objectives and the constraints imposed by the other bargaining state. This thesis has argued for the linkage of the two approaches within a process-tracing framework. After integrating multiple streams and synthetic utility and evaluating the results of the union across two case studies, it has been possible to shift the analysis between the bilateral and domestic levels and, with relative ease, trace the process of policy development from initial conditions to outcomes using consistent dynamics.

This thesis has examined the evolution of two trade policy decisions that were initially perceived as unpopular or unlikely. In doing so, the analysis implicitly departs from assumptions about the rational unfolding of policy development in predictable, incremental stages or phases. The Auto Pact and CUFTA were anything but predictable or inevitable. They were the result of specific conjunctions of events that were highly contingent in nature. In creating a new configuration of two existing theoretical lenses, this thesis has attempted to model past events in a way that accommodates both structure and randomness and allows us to make probabilistic predictions about what might happen under similar conditions in the future.

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