

Scope and Trade Agreements

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Under the North American Free Trade Agreement (NAFTA) Canadian grape growers and Mexican cement manufacturers got a 10-year stay of execution. But US sports shoemakers faced the hangman of regional competition immediately, watching their 48 per cent tariff disappear overnight. While tariffs were phased out gradually on some US products, this pattern of immediate exposure for US producers, coupled with protection for their Canadian and Mexican counterparts, was very common.

In contrast, in negotiating the side agreement on the environment, the United States dictated the terms to its partners. US leaders steamrolled the objections of environmentalist Canadians and developmentalist Mexicans, pressing environmental regulations and multilateral institutions that suited US political interests alone.

Acknowledgments: This paper is part of a project entitled “Programa Interinstitucional de Estudios sobre la Región de América del Norte” (PIERAN) financed by the trilateral research program of El Colegio de Mexico. We wish to thank Sarah-Myriam Martin Brûlé, PhD candidate, McGill University, for her brilliant assistance with the revisions, to Nicole F. Bernier, assistant researcher University of Montreal, for her report on the political economy of NAAEC and the two very thoughtful and generous reviewers of this journal who have pushed us with the depth of their comments to rewrite and clarify much of our argument.

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Canadian Journal of Political Science / Revue canadienne de science politique

40:1 (March/mars 2007) 157–183 DOI: 10.1017/S0008423907070096

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Finally, in reaching a deal on rules of origin—the minimum portion of North American value-added necessary for NAFTA to apply—in the automobile and textile sectors resembled a true intergovernmental bargain. Each country achieved some concessions, responding both to negotiating partners and to domestic constituencies. Power, strategies and interests all played roles in determining this outcome.

This article seeks to make sense of these diverse and paradoxical outcomes. On the one hand, domestic interest groups in the weaker countries seemed to exert great influence over the tariff phase-out schedules. On the other hand, Canadian and Mexican negotiators proved nearly powerless in the face of a determined global hegemon pushing its labour and environmental agendas. And in the middle, interests and power conjoined with strategies to produce the outcomes. It is almost as if entirely different political logics were in play for the three settings. Almost, but not quite.

Our answer to this puzzle depends on what we term the *scope* of the issue. An issue's scope critically influenced when the most powerful actor, the United States, could determine outcomes and when Mexico and Canada or firms and interest groups could effectively combat the US muscle. When the regional economic negotiations affect broad swaths of a society, mobilizing unions, interest groups, NGOs and political leaders, power asymmetries dominate. When the scope is low, top-level politicians are less interested and domestic economic interests hold sway. When the scope is medium, the logic of intergovernmental bargaining—where both power and interests interact with strategies—drives outcomes. This broad argument likely suffers empirical exceptions, but we contend that it broadly captures the nature of regional trade negotiations.

This paper has six parts. We first discuss the limits of other literature in building towards the second section that provides a fuller description of our model. The third section describes the high-scope model in more detail and uses the side agreement on the environment as a case study. The fourth section focuses on low-scope negotiations and employs a large database that includes 30,000 lines in the tariff schedules and coding for hundreds of industrial sectors in the three countries to test that model. The fifth section focuses on the rules-of-origin requirements for the apparel and textile industries, placing them within the context of middle-scope negotiations. The sixth section summarizes the findings and concludes with a discussion of the potential generalizability of the model.

The Limits of Extant Approaches in Explanations of NAFTA Outcomes

In the most prominent accounts of North American trade negotiations (Mayer, 1998; Robert, 2000; Cameron and Tomlin, 2000), pro-trade

Abstract. With a focus on NAFTA, we offer an alternative model of trade negotiations that explains why the dominant partner is able to force concessions only on some issues. Key to our model is the concept of *scope*. The environment side agreement excited wide swaths of society; thus, scope was high and international power asymmetries appear to explain the result. Power asymmetries seemed unimportant, however, when bargaining over issues that affected small portions of society, such as individual tariff levels. Finally, in issues of medium scope, such as the rules of origin for the textile industry, power asymmetries and elements of traditional bargaining models likely account for the negotiated outcomes.

Résumé. Ce texte explique pourquoi, au cours de la négociation d'une entente commerciale, le pays dominant n'a pas en général intérêt à imposer ses préférences aux pays partenaires. Le concept de « scope » (ou de portée) sert à distinguer entre les différents enjeux d'une négociation. La négociation du traité de l'ALENA sert ici de cadre pour l'application de notre proposition. Parce que d'importants secteurs de la société jugeaient prioritaires les enjeux soulevés par l'accord parallèle sur la coopération dans le domaine de l'environnement, l'issue des discussions a été imposée au plus haut niveau par les dirigeants américains. En revanche, les taux tarifaires appliqués aux différents produits ne concernent chacun que des groupes restreints. Sur ces enjeux, les rapports de puissance ne jouent pas. Enfin, ce n'est que sur les enjeux intermédiaires, tels que les règles d'origine pour l'industrie textile, que les processus familiaux de négociations internationales rendent compte de la réalité de façon satisfaisante.

negotiators determine policy by pressing both business leaders and politicians to accept bargains that those leaders did not initially favour. Such accounts, however, can be apolitical and often ignore the core concerns of power and interests. They also obscure the variance that occurs at the different levels of scope in the negotiations.

For Mayer, most of what is interesting takes place in bargaining among the negotiators, and, thus, individuals' preferences and actions are the focus of the theory. International factors and international institutions explain some of the negotiated outcome, domestic politics explain a different portion, and negotiators' interests explain the considerable residual. In this example, theories are considered not so much for their alternative testable propositions as for the ways they can sharpen the focus on the story being told.

Robert's framework invokes resources, a structural variable, and tactics, a process-oriented variable (2000). Resources include a wide range of factors that provide an actor with alternatives to the agreement being discussed. These resources translate into power. Tactics, on the other hand, amount to bureaucratic skills of maneuver during negotiations. The better trained the bureaucracy with better access to state resources, the more power. Robert confirms that power, interests and strategies were all in play, but missing is how her model would predict the outcomes that occurred in each of these sectors.

Cameron and Tomlin (2000) offer the most developed theory. They advance three main arguments. While larger, more powerful states are responsive to their domestic constituents, smaller, weaker states are more responsive to the larger states. Second, asymmetrical power does not

necessarily lead to asymmetrical results because weaker governments can have more attractive alternatives to the agreement being negotiated. Third, as the fall-back position grows less attractive, states will offer more and require fewer concessions from negotiating partners to ensure the agreement's passage. Here, international power structures play a role, as do domestic institutions. In Cameron and Tomlin's story, the negotiators become the fulcrum connecting domestic and international forces.

While we concur that negotiators and their strategies matter, these analyses ignore the fact that negotiators are agents. They have been delegated tasks from their principals—ultimately the electorates in the three countries. There is always “slack” in agent behaviour that the principals do not desire or intend. So, axiomatically, agent behaviour always matters, though the degree of agency slack is dependent on how the principals structure the delegation. We thus do not disagree that negotiators play a key role, but their role must be put into context. This is our justification for adding the issue of *scope* to the models.

Scope and Trade Agreements

Current theories of international political economy (IPE) and comparative political economy (CPE) struggle to explain the complexity of regional trade agreements with parsimonious models, in part because they fail to disaggregate the different aspects of these agreements. IPE models focus on issues of hegemonic influence and international institutions (Krasner, 1978; Keohane, 1984; Grieco, 1990; Lake, 1988; Martin, 1992), generally showing that rules reflect the distribution of power but international institutions then co-ordinate future intergovernmental relations. For IPE models, trade pacts result from international factors (Habeeb, 1988; Keohane and Nye, 1977, 1989; Odell, 1990; Robert, 2000; Singh, 2000; Zartman, 1971, 1987).

Alternatively, models of CPE focus on the domestic interests, coalitions and national institutions that produce economic policy (Magee et al., 1989; Trefler, 1993; Rodrik, 1994; O'Halloran, 1994; Grossman and Helpman, 2001; Nielson, 2003). While international pressures may be important for these models as triggers or incentives, domestic variables do most of the explanatory work. The market shares and organizational cohesion of domestic interest groups, along with their lobbying strength and the structure of domestic political institutions, condition trade outcomes.

However, regional trade agreements encompass both international co-operation and domestic policy. Drawing from both political economy traditions, Druckman (2001, 2002) considers how both international and domestic circumstances define “turning points” in negotiations. The “second-imaged reversed” approach notes that international forces

shape the interests of domestic societal actors in important ways, but authors in this tradition also argue that explanations for trade policy must concern themselves with how these societal actors position themselves and work within the constraints of the domestic political situation (Gourevitch, 1978, 1986; Rogowski, 1989; Milner, 1990; Frieden, 1990). Still, we are left guessing as to how different domestic governments coalesce and bargain within international trade negotiations that produce co-operative outcomes.

The intergovernmental bargaining approach places international negotiations much more at centre stage (Putnam, 1988; Evans et al., 1993; Moravcsik, 1998). Putnam insists on the simultaneous reciprocal feedback effects between the domestic and international levels. Hence, while this two-level approach “combin[es] the domestic and international arenas into a single bargaining model, it turns out that the strategies and preferences of individual statesmen ... are central in determining the outcome of any international bargain” (Pollack and Shaffer, 2001: 22).

This lack is partly compensated by Moravcsik (1998), who combines liberal theories of IR and IPE, bargaining theory and Putnam’s two-level games analysis with a new theory of institutional choice stressing the importance of credible commitments. He specifies that state preferences are domestically generated and highlights how economic interests of various societal actors, rather than security interests, can be the driving motivation behind international bargains. His framework thus focuses on the role of power, interests and strategies during negotiations as political leaders balance the demands of their international counterparts with the interests of their domestic constituencies. Yet Moravcsik’s model joins the rest of the political economy literature in a key deficiency: it focuses on specific aspects of regional co-operation rather than considering the agreements as wholes. This has led to truncated conclusions about regional co-operation that are not fully measured by the evidence contained in the agreement.

One important advance has been to move from strict adherence to political economy or asymmetric power explanations to consider how negotiators vary their strategies in accord with contextual situations. For example, Odell (1999) evaluates the shape and effects of negotiation postures by asking how contextual issues such as domestic political institutions, cultures, the security environment, and the international organization context condition the process. As noted, Druckman (2001) also expects varying negotiating strategies and outcomes. In this process, adjustments in negotiating positions are made following a comparative evaluation of the relative positions of the parties on the various negotiating issues at a threshold point where the differences in perceived positions are deemed to be sufficient to warrant a response. In sum, these authors highlight the importance of context—of which scope might be

a subset—in explaining different forms of the negotiating process. Yet all seemed to miss a critical point: different pieces of trade agreements can be much better explained if the causal variables are weighted according to the scope of the issue being negotiated.

Hence, while we borrow aspects of the IPE and CPE models, we add a key concept—scope—that allows us to predict when and where domestic political economic considerations will prevail and under what conditions international power concerns will dominate in regional trade negotiations. *We define scope as the proportion of society affected—multiplied by the degree to which society is impacted—by the issue being negotiated.* Our model's intent is to specify when particular variables will carry more or less weight in explaining different outcomes.

The point of departure is that when considering comprehensive trade deals, elected officials' primary concern is with passage of the agreement as a whole; they are uninterested in the details of the agreement except where those details have the potential to scuttle the deal. Leaders thus assert their influence to determine the framework of the deal but delegate negotiating authority to set, for example, the level of tariffs on grapes, cement, and shoes.

The type of bargaining, then, varies according to the scope of the item being negotiated. Because high-scope issues affect the agreement's framework, which, in turn, affects popular support, top-level politicians will become involved in the proceedings when the proportion of society affected is large. In these cases, the broad interests may mobilize, and even if they do not, politicians and their negotiator agents will act *as if* the broad social groups are mobilizing (Bailey, 2001; Denzau and Munger, 1986; Baldwin and Magee, 2000). Since bargaining takes place at the highest levels, we argue that the outcome of high-scope issues will be determined by international power asymmetries.

In contrast, issues that affect a relatively narrow slice of the societies—and therefore do not grab headlines that threaten mass mobilization or the treaty's approval—will not be negotiated at the highest levels. Lower-level negotiators, then, will have some freedom in setting, for example, tariff rates for the thousands of products that do not generate great political debate, as long as they operate within the framework for the overall agreement. This freedom, however, is limited. For example, while negotiators have freedom to choose how quickly the tariff on most products will be phased out, the framework binds the negotiators to phase out all tariffs within, say, 15 years. In negotiating low-scope issues, power asymmetries should be relatively unimportant, because all sides have too much interest in the framework to threaten a take-it-or-leave-it position on small issues. Negotiations among countries for low-scope issues will therefore take place on a level playing field, with outcomes

TABLE 1
Argument and Empirical Areas

Scope	Key Variables	Predicted Outcome	Empirical Area
High	Power	Country with greatest power achieves objectives. Asymmetry matters.	Environmental Side Agreement
Medium	Domestic interests, credibility, bargaining power	Industrial sector preferences, backed by country asymmetries define outcomes	Rules of Origin
Low	Domestic interests	Well-organized interest groups achieve objectives—slow phase-outs for uncompetitive groups, rapid phase-outs for competitive groups; “automatic pilot function.”	Tariff schedules

of bargaining determined by the negotiators’ skills and firms’ interests rather than power asymmetries.

In between these two extremes lie issues of medium scope. Here our framework predicts a middle course, where power, economic interests, and domestic politics all come into play. The model for medium-scope issues, therefore, reflects Moravcsik’s framework.

Table 1 presents an overview of our argument. High-scope issues, such as the labour and environmental side agreements, are driven by power asymmetries, as argued by structural neo-realists (Krasner, 1976, 1985). Medium-scope issues, such as the rules of origin, are driven by political economy variables best articulated by Moravcsik’s (1998) intergovernmental bargaining model. Low-scope issues, such as individual tariff rates, are decided through bargaining among firms and interest groups.

High Scope and Power Asymmetries

Realism conceives states as unitary actors differing mainly in the magnitude of their military and economic might. Because the world is anarchic, states must count on themselves alone (a self-help system) to ensure their survival. States strive for power and hence compete among themselves (Waltz, 2003; Grieco, 1988; Mearsheimer, 2001). Great powers are willing to take risks to improve their position in the international system because they are more concerned with relative than absolute gains. The world is conceived as a zero-sum game and asymmetries in structural power determine winners and losers in international negotiations.

In this particular deal, the United States employed its considerable economic bargaining strength rather than threatening military action or even trade sanctions. Following Putnam, power in trade negotiations is inversely related to a country's desire for completing the deal (also Lax and Sebenius, 1986, 2004). Bargaining power stems from an actor's capacity to walk away from the deal. In his language, the size of the range of acceptable outcomes—the win set—is inversely related to bargaining power.

In this case, assuring access to the US market was crucial to President Carlos Salinas' goals of modernizing Mexico's economy. No longer able to rely on petroleum exports, Mexico needed NAFTA to sustain export-led growth to generate foreign exchange. Also, Mexico would have seen that NAFTA would help assure their role as the United States's favoured low-cost supplier, thus attracting more investment (Bhagwati, 1991).¹ Given acceptance by the United States and Canada, NAFTA also gave Mexico credibility and confidence in their trade dealing in other regions (Hogenboom, 1998: 41). This interest in the deal put the Mexicans in a fairly weak bargaining position—their win set was large—since the other negotiators knew that the Mexicans would accept great concessions to ensure that a deal could be done.

The United States, in contrast, had less reason for enthusiasm about NAFTA. It clearly had an interest in the deal, but the Mexican and Canadian markets were relatively small, goods were already crossing the borders easily and alternative sources for inputs were not problematic. The imbalance is obvious in view of the importance of the three countries in the regional economy. The United States accounted for nearly nine-tenths of the North American gross domestic product, Canada seven per cent, and Mexico three per cent (Cameron and Tomlin, 2000:15). That Mexico benefited disproportionately from the deal can be assessed in retrospect, noting the fact that between 1993 and 2002 Mexico's exports to the United States grew by more than three times, from \$42.8 billion to 143.1 billion.² This put the United States in a strong bargaining position. Since the costs to the United States of no agreement were relatively smaller, the hegemon had much less to lose. In short, the United States had a small win set and was thus in a stronger bargaining position.

A High-Scope Example: The North American Agreement on Environmental Co-operation

Realist theory suggests that, given the power asymmetry, the United States should have dominated the negotiations. We find that indeed they did so with respect to framework or high-scope issues. The side agreement concerning the environment, formally the North American Agreement on Environmental Co-operation (NAAEC), provides a clear example. In 1992–1993, the incorporation of environmental and labour issues became

critical for the success of NAFTA, as US environmental groups opportunistically voiced their demands in the domestic political process surrounding the trade talks.

Two aspects of the process that led to the NAAEC are important to our theory. The first concerns the reasons why the US administration was able to put the side agreement on the agenda and the second concerns that administration's ability to impose its policy preference on the other players.

First, it is safe to argue that a side issue such as the NAAEC would not have been integrated into NAFTA if it had been raised by any country other than the United States. As Canada found when it raised environmental issues during its negotiations over the Canada-US Free Trade Agreement (CUFTA), or Mexico found with regards to the issue of immigration during the NAFTA negotiations. Less powerful countries lack the political clout to coerce their partners to conjoin outside issues to the general agreement. The US clout, again, was a function of its small win set, which was small when the negotiations began and shrank even further as a result of the 1992 election and the change to a Democratic president.

As the NAFTA negotiations unfolded, US-based unions, interest groups, NGOs and political leaders mobilized out of concern that the agreement would lead US firms to move to Mexico in order to avoid strict (and costly) environmental standards. Audley (1997: 51) argued that "environmental opposition to NAFTA gave protectionists a reason to oppose Fast Track which was less vulnerable to criticism."

During the electoral campaign, Bill Clinton initially vacillated on support for the agreement that his opponent, President Bush, was publicly supporting. Once in office, Clinton did not wish to appear to be defending protectionist labour interests. Clinton selected advisors from the mainstream ENGOS to develop a position on NAFTA. Showing too much receptivity for environmental and labour demands risked losing support for the deal. In the definition of the domestic win set, it was clear that the politicians had to try to balance pressures and counter-pressures by the environmental movement and the business community. So, in order to win the necessary support in Congress, the Clinton administration had to appear it was doing something substantial on behalf of the environmental community, on the one hand, but, on the other hand, it needed to reassure the business community that the contents of a trilateral environmental accord would not threaten its core interests.

In the end, the Clinton administration developed a dual strategy: first, a be-tough-on-Mexico position that was aimed at the environmental groups and the general electorate and, second, a pro-business strategy that sought to assure the free-trade advocates that the side agreement would have minimal effects on trading conditions. The final compromise, however,

was significant, because it not only joined environmentalists and business interests, it joined protectionist and liberalizing forces, thus meeting our criteria for a high-scope issue.

In imposing the US position on Mexico (Canada was exempted from most environmental provisions because Mexico was the focus of the ENGOs) the key was, again, the small win set for the United States that turned this issue into a referendum on the entire package. It was clear to all players that the environment was a deal-killer. The US, therefore, credibly wielded a very small—and thus powerful—win set.

For our argument, it is still necessary to show the extent to which the Mexicans were opposed to the NAAEC. Under President Salinas, the Mexican government had pursued a process of environmental reform by way of creating new environmental legislation and intensifying its implementation efforts. These reforms won Mexico the first international Earth Prize in 1991. Mexican officials were caught by surprise when the issue of environmental protection, which they considered an unjustified intervention into their domestic affairs, was linked to the US congressional approval of the “fast track” authority. As a result, Mexico initially met the US environmentalist pressures with equally strong objections. Nevertheless, in the fall of 1991, it became clear that some environmental concerns needed to be addressed to assure Congressional approval for NAFTA.. Mexican negotiators reluctantly agreed to an independent border environmental plan, even though they initially objected that tying trade sanctions to environmental issues was outside the bounds of the treaty. Two years later, Mexican officials had agreed to environmental concessions in NAFTA’s main text and three environmental deals, which entailed significant concessions on Mexico’s part and an erosion of Mexico’s national sovereignty over environmental matters (Mumme, 1993).

In sum, the NAAEC illustrates how power asymmetries define trade agreements on high-scope issues. While each country faced domestic pressures about different aspects of the trade agreement, only the United States was successful in getting its issue—the environment—onto the agenda. As the player with the smallest win set, it was then able to elicit serious concessions from Mexico, a country with a much larger win set.

Low Scope: Domestic Interests and Autopilot

Low-scope issues are those that do not engage more than small segments of domestic societies. As a result, low-scope issues do not yield high enough stakes for a country to credibly threaten to kill the deal over these issues. Relative power, then, is ineffective in pushing low-scope outcomes, and as a result we should not expect the United States to win disproportionately on low scope issues of NAFTA.

To deal with low-scope issues, our model foresees leaders winning political capital by delegating authority to lower-level negotiators (Lake and McCubbins, 2006). The leaders first gain by setting the overall framework of the deal. Then, by delegating authority to the affected firms and interest groups to work out details with their counterparts from other countries, the leaders gain by the granting of authority and by avoiding many of the political battles over relatively unimportant issues. In sum, then, in this model, top-level policymakers are uninvolved with low-scope issues while negotiators are free to “horse-trade” based on domestic political and economic factors. This implies that the ability of producers and other affected interest groups to pressure the bureaucrats, along with the savvy of the bureaucrats, will explain outcomes in these areas.

This pluralist view of politics is akin to the idea of a government on “autopilot,” originally discussed (though too briefly) by McCubbins, Noll and Weingast (1987, 1989; also McNollgast, forthcoming; Moe, 1990a, 1990b, 2006) in their development of a theory of delegation. The concept envisions politicians charting basic routes but then giving societal groups the discretion to determine the precise turns necessary in order to reach the destination. This is a very shrewd strategy, since it generates credit for the leaders for their captaining an agreement, but it also allows the leaders to deflect blame for particular decisions that affect specific interest groups. In this case, our model posits that the executive’s electoral strategy is to present interest groups with a *fait accompli* framework and then to delegate to those very groups most of the responsibility for working out the details of the agreement. The leaders can therefore limit the political heat by accommodating as many industries as possible. This type of delegation is the principals’ response to an increase in the heterogeneity of constituency interests. The pilot-executive determines the final destination, but then lets the built-in structures (such as interest groups) plot the course to that destination.

Under the autopilot function, politicians set up a system under which the bureaucracy, in collaboration with industry and other interested groups, sets policy within the limits of the framework agreement. This accomplishes several goals. First, it yields credit for the incumbent government by enfranchising interested groups and avoiding costly decisions about policy directions. Second, in the words of the original authors, “as the preferences of the constituencies enfranchised in the agency’s structure and procedure change, so too will the agency, freeing Congress and the president from having to enact new legislation to achieve that end” (1987: 443). Third, as the different industry and societal groups are involved in the process, they have little reason to pull fire alarms that would sound in Congress. We test this model below using the tariff schedules for the thousands of products covered by NAFTA to show that the autopilot model

provides a better explanation for the data patterns than realist or political economy models.³

The Unimportance of Power Asymmetries in Low-Scope Issues

Realist theory would predict that the Americans could have presented the Mexicans with a tough take-it-or-leave-it deal (Zartman, 1997), forcing all Mexican industries to reform while maintaining protection for those US industries that desired it. Instead, however, more US industries dropped their tariff protection more quickly than did Mexican firms, as Table 2 details.

Under NAFTA there were four basic “staging categories” or tariff phase-out rates, labelled A, B, C, and D. The A code signified that existing tariffs were immediately dropped to zero, the B codes denoted tariff phase-out periods of five or six years, the C codes gave 10 or 15 years of protection, and the D code noted that the product was an exception and had no tariff protection prior to NAFTA, thus remaining unprotected. Table 2 compares the application of these codes for the three countries and clearly shows results contrary to realist expectations.

First, about 80 per cent of the products in the United States either had no tariff protection prior to NAFTA or were forced out of tariff protection on January 1, 1994. This is a much higher number than found in the other two countries, where the corresponding figure is 50 per cent for Mexico and 57 per cent for Canada. Most interesting, the number of US products that immediately lost their tariff covers (code A) is slightly higher—but lower in percentage terms—than products which lost their protection as soon as the treaty took effect in Mexico, but considerably fewer (numerically and as a percentage) than those which lost protection immediately in Canada.⁴

To be assured that our measures were not biased by the level at which tariffs began, we constructed a measure of “lost rents” that takes as its

TABLE 2
Comparison of Three Countries' Phase-Out Schedules

Staging Category	US		Mexico Quantity of Products		Canada	
	#	%	#	%	#	%
A (Immediate change to 0)	5435	54.5	5805	48.0	2374	30.8
B (5 or 6 year phase-out)	948	9.5	2548	21.1	2000	25.9
C (10 or 15 year phase-out)	943	9.4	3479	28.8	1269	16.5
D (no prior tariff protection)	2652	26.6	265	2.2	2070	26.8
Total	9981	100	12097	100	7713	100

baseline the protection a product would have received in the absence of the treaty, that is, we view tariffs as a rent that domestic producers receive from artificially inflating competitors' prices. We then compare this baseline with the declining rent that the producers receive as a result of NAFTA, based on 10-year outlook. This statistic gives a straightforward measure of which products were afforded the most protection.⁵ "Lost rent," in sum, assesses the change in competitors' prices that resulted from NAFTA; a larger lost rent implies a greater cost to the domestic industry.

The lost rent statistic reveals that most US products that were given an A staging code already had low tariffs. Of the 4,637 US products that had tariff rates set in percentage terms, only 655 had tariffs greater than 10 per cent in 1994, 109 greater than 20 per cent, and just 26 had a tariff rate of 30 per cent or more. The median rate was just 4.9 per cent, which translates to 49 per cent lost rent over 10 years. The median Mexican product, by contrast, had an initial tariff twice as high (10 per cent) and thus its lost rent over 10 years was 100 per cent. This suggests that the Mexicans paid a heavy price in concessions. Still, access to the U S market was vital to the Mexicans and it is clear that the United States did not overwhelm the Mexicans in this deal.

The B category provides similar results, and there is even stronger support for our alternative theory in an examination of the products in the C category, where very few US products received 10 or 15 years of protection, while more than one-quarter of Mexican products and 17 per cent of Canadian products received long-term tariff protection. These products had somewhat higher initial tariff rates; of the 943 US products in the C category, roughly one-half had initial tariff rates more than 10 per cent and a full 25 per cent had initial tariff rates of at least 30 per cent. The median tariff rate of these products, however, was just 7.2 per cent and the median lost rent over the 10 years is therefore 38.5 per cent. The Canadian numbers are comparable to the US numbers: 1269 products, a median base rate of 8 per cent, and a lost rent of 44 per cent. By contrast, almost four times as many Mexican products received a C coding (3479) and these too had a median base rate double that of the US and Canadian products (15 per cent). The median lost rent of these products was thus higher (a median of 83 per cent), but because so many more products received protection, it seems clear that the Mexicans were the winners according to this bilateral comparison. Unlike the United States, the Mexicans were able to maintain protection on a large group of goods that had benefited from relatively high levels of protection.

In sum, the patterns of phase-out rates are at odds with a conventional perspective that would have expected the US negotiators to push their trading partners into putting more products into the A category.

The Failure of the Political Economy Model for Low-Scope Issues

The expectations for a political economy and autopilot model are summarized in Table 3. The political-economy logic behind the table is that competitive firms either had low tariff levels prior to NAFTA (code D) or they agreed to a fast phase-out schedule (code A). The autopilot model does not have different expectations about the two left-hand side boxes, as the government, favouring free trade, would not have had any reason to oppose these industry positions. The two models do not differ in the upper right box either, where it is expected that powerful and uncompetitive industries would start with higher tariff walls and successfully fight for slow phase-out rates. The two models differ, however, with regard to relatively weak and uncompetitive industries (the lower right box). The political economy model predicts that the government would ignore these industries' preferences for continued protection and assign them fast phase-out rates. An autopilot government, however, would allow less-competitive firms—which were likely to have had higher tariff rates to begin with—to have longer phase-out schedules (codes B and C). Key to evaluating the two models, then, is determining whether weak and uncompetitive firms were successful in their bids to retain protectionist tariffs.

To test the expectations set out in Table 3, we move to sector-level tests, with a focus on the United States. To this end we have collected data on competitiveness and concentration of the several hundred industrial sectors defined in the three countries and merged it with our data on the tariff phase-out rates.⁶ The results of those tests suggest again that market power was not a determinant in explaining the average tariffs; even weak sectors received significant protection.

TABLE 3

Expectations for the Political Economy and Autopilot Models

Power of industries	Industry Competitiveness	
	Competitive	Not competitive
High	PE model: Low tariffs and/or fast reduction (product codes A & D) Autopilot model: Same	PE model: High tariffs and slow reduction (product codes B & C) Autopilot model: Same
Low	PE model: Low tariffs and/or fast reduction (product codes A & D) Autopilot model: Same	PE model: Low or high tariffs but fast reduction (product codes A & D and high lost rent for A category products) Autopilot model: More products with slow phase-out rates (product codes B & C and low lost rent for A category)

In order to operationalize an industry’s free trading preferences we focus on the industry’s level of international competitiveness, which can be proxied by labour productivity. As a proxy for an industry’s power, we consider two variables, the number of firms with at least 1000 employees, the market share of the industry and the value of industry shipments.

As a first empirical evaluation of the model, Table 4 provides the number of US sectors that corresponds to each of the boxes from Table 3. The table breaks our proxies for market power and competitiveness at their median and provides the mean and median tariffs for the relevant sectors. The political economy model does a fair job in explaining the mean and median tariff rates, as the less competitive sectors have slightly higher median tariff rates than the competitive sectors. If we consider the mean tariffs, then there is some discrepancy, as competitive but powerful sectors have a slightly higher average tariff than those in the less competitive box. Among the less powerful industries, however, the less competitive sectors have a significantly higher average tariff than any other group.

The final two statistics, the mean years to zero and lost rent, are key to defining the difference between the political economy and autopilot models. Recall that when the political economy model predicts that weak, uncompetitive industries lose their protection, the autopilot model

TABLE 4
Testing the Political Economy and Autopilot Models*

Power of industries	Industry Competitiveness	
	Competitive	Less competitive
High	Median tariff 6.1%	Median tariff 6.2%
	Mean tariff 7.6%	Mean tariff 7.4%
	SD 5.4	SD 3.7
	Mean years to zero 0.6	Mean years to zero 2.0
	Mean lost rent 68.8 (n = 26; 26)	Mean lost rent 66.9 (n = 31; 31)
Low	Median tariff 4.8%	Median tariff 6.3%
	Mean tariff 5.1%	Mean tariff 8.5%
	SD 4.3	SD 5.6
	Mean years to zero 1.2	Mean years to zero 2.4
	Mean lost rent 57.3 (n = 71; 70)	Mean lost rent 70.8 (n = 61; 56)

*The number of observations refers to the number of sectors used to calculate the mean and median tariff and lost rent. The second number refers to the number of sectors with data for the mean years to zero.

predicts that these sectors would be successful in winning longer protection. As a test, we calculated the average number of years until the tariff for each product in the given sector reached zero, and the statistic in the table is the average for the sectors belonging to each box. It shows quite clearly that the less powerful sectors were not rolled; they won longer phase-out periods than any other set of sectors, even 20 per cent longer than the powerful but less competitive sectors.

To insure against bias based on initial tariff levels (products that dropped from high levels of protection were more gravely injured than those that fell from a low rate), we also applied our lost rent statistic. The political economy prediction was that the weaker industries would pay a higher cost in the agreement, which would show up as higher lost rents. This prediction should be clearest among the less competitive sectors, since those sectors should start with higher average tariffs. Table 4, however, shows that the sectors in the lower right box had lost rents approximately equal to those of the high power sectors. The weaker but competitive firms had the lowest average lost rent, but this result is the simple consequence of their having started with lower mean base tariff rates.

The data also allow for simple regression analysis (Table 5) in which there are two dependent variables: the "cumulative tariff" until phase-out (summing the tariff rate across all years until phase-out for each product and then taking the average for each sector) and lost rent. On these response variables we regressed industry concentration (fractionalization

TABLE 5
Regression Analysis of Political Economy Model on Cumulative Tariff and Lost Rent/1

Independent Variable	Dep. Var.: Cumulative Tariff			Dep. Var.: Lost Rent		
	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
Industrial Concentration	0.0629 0.1085	0.0628 0.1087	0.0603 0.1088	0.0361 0.2547	0.0374 0.2548	0.0331 0.2548
Log of Labour Productivity	-0.0844* 0.0232	-0.0833* 0.0233	-0.0850 0.0248	-0.0849 0.0544	-0.0829 0.0546	-0.0853 0.0581
Sector pct. of US Employ.	-0.0294 0.0314			-0.0328 0.0738		
Sector pct. of US Wages		-0.0176 0.0277			-0.0291 0.0648	
Sector pct. US Value-Added			0.0015 0.0289			0.0011 0.0678
Constant	0.4303* 0.0998	0.4224* 0.0996	0.4248* 0.1035	1.0132* 0.2341	1.0039* 0.2335	1.0064* 0.2424
Number of Observations	185	185	185	185	185	185
R-Squared	0.073	0.070	0.068	0.014	0.014	0.013

/1 coefficients and standard errors

* significant at .001 level

index of firms weighted by market share), labour productivity (logged due to its high skewedness), and three different measures of industry importance: per cent of US employees in the sector, per cent of US wages in the sector, and per cent of US value-added in the sector.

With the cumulative tariff as the dependent variable, the results suggest that only one element of the basic political economy model functions as expected: the log of labour productivity, our proxy for international competitiveness. As industries grow more concentrated, the cumulative tariff decreases significantly. However, this is the only supportive result for the conventional model. Neither the importance (measured three different ways) nor the concentration of the industry appears to affect the cumulative tariff.

However, since our cumulative tariff variable cannot capture the likely costs to an industry of the category A schedule—where producers lost tariff protection immediately in 1994—lost rent is likely a better measure of the NAFTA tariff schedule. But when lost rent is the dependent variable there is no statistical evidence that the traditional political economy model accounts for the variance. None of the independent variables is significantly related to lost rent, suggesting that a different logic was at work in driving the NAFTA phase-out schedule.

In Support of the Autopilot Model

A final piece of evidence for the autopilot model is the setting up of trade advisory commissions by each of the three countries to contribute to the negotiations. In what seems a clear example of a conscious effort by the government to set up an autopilot system, the United States established its system of trade advisory groups through the 1974 Trade Act (section 135) and its extensions.⁷ Under that act, the president must seek advice from industry groups, termed advisory committees on trade negotiations, and provide each group the necessary “staff, information, personnel, and administrative services” (paragraph b.3). The original act insures that Congress receives information from the advisory groups, and it is now further mandated that the government respond to the advice in reports to Congress.

Such groups also exist in Mexico and Canada, with the former creating its *Coordinadora de Organismos Empresariales de Comercio Exterior* (COECE) exclusively for the NAFTA negotiations, and the latter having developed its *International Trade Advisory Committee* (ITACs) and *sectoral advisory groups* (SAGITs) for the 1986 Canada-United States Free Trade Association talks. These groups consisted almost exclusively of high-level business representatives and included a co-ordinating group and sector-specific groups for all industries concerned. Labour, though invited to join, was largely absent from these groups.

In sum, the structure of the negotiations suggests that the leaders created a central role for interest groups. Joining this with the finding that the results of the negotiations matched neither realist nor political economy theories suggests the plausibility of the autopilot model. The politicians, as pilots, plugged in the final destination (phasing out tariffs within 15 years), but then let the built-in structures (the interest groups) determine which route to take.

Medium Scope and Intergovernmental Bargaining

In our discussion of medium scope, our argument applies Moravcsik's (1998) model, which we see as combining some elements from both our high- and low-scope models. With his model of intergovernmental bargaining, Moravcsik focuses on three main factors: preference formation, bargaining power and credible commitments. In terms of bargaining power in NAFTA, the industrial sectors with the greatest political and economic resources generally exercised greater influence to enact their preferences. At the same time, societal preference formation occurred in a regional context, where transnational supply chains and investment gain relevance. Preference formation largely derived from the international competitiveness of the affected sectors. Competitive sectors sought rapid opening or short phase-outs of tariffs, and uncompetitive sectors sought protection, or longer phase-out rates.

There are two ways in which competitiveness mattered for industries' preference formation: first, in relation to competitors in the other two countries in NAFTA; and second, in relation to competitors in the rest of the world. Moravcsik makes clear, and NAFTA supports this contention empirically, that regional agreements can indeed be used as Bhagwati and Panagariya fear (1996), as preferential trading arrangements where regional strategies are designed in the face of global competition.

Once preferences are formed, bargaining power narrows the range of possible negotiated outcomes as in our high-scope model. Bargaining power, however, does not completely coincide with power as traditionally conceived in international relations. Bargaining power depends on options—the degree to which a given actor values the fallback position of no agreement. Clearly, traditional power affects bargaining power in a direct and relatively linear fashion. Larger, richer and more powerful countries in the classic sense likely have more attractive alternatives to no agreement than do their weaker counterparts. And, as Moravcsik (1993) notes, side payments or concessions by a country in one area can facilitate bargaining in other—perhaps more important—areas. But where issues can be treated independently, as in our case, traditional power is not especially fungible between issues. On such occasions, the bargain-

ing power on that particular issue should prevail in a manner reflective of our low-scope predictions.

In the end, we agree generally with Moravcsik's framework, but we argue that it is most applicable to medium-scope issues. Such issues, then, will be decided at the junction of domestic interest group preferences (which may be driven by the logic of cross-border commodity chains) and governments' bargaining power relative to negotiating partners. Where bargaining power—or the value of the fallback position of no agreement—is greater for a given country, the final agreement will more fully reflect that country's domestic interest group preferences.

A Case of Medium Scope: Textile Rules of Origin

For our medium-scope case study, we have chosen to focus on the "rules of origin" as applied to the apparel and textile industries. A rule of origin (ROO) determines the percentage of inputs of a product that must originate from one of the countries of the trade area to qualify for free trade. Rules of origin are of medium scope because they cover whole sectors of an economy. Under NAFTA, negotiators adopted a general ROO of 50 per cent,⁸ but the rules governing textiles, apparel, autos and auto parts were treated as special cases and negotiated by sector-specific groups. The result was a ROO for the automotive industry of 62.5 per cent and an even higher level for textiles, in the range of 80 to 95 per cent.⁹

Given the middle-scope nature of the ROO agreements, we expect that, within a context of asymmetric international power, domestic politics and the structure of commodity chains should explain the outcomes.

The textile rule of NAFTA, known as "yarn forward" or "triple transformation" (from yarn to fabric to clothing), probably represents the most protectionist rule of origin adopted by NAFTA (Johnson, 2000; Lamar, 2000; Cameron and Tomlin, 2000; Espinosa, 2000). Except for fibres, it requires that all materials and transformation processes of textile products must be of North American origin.¹⁰ As predicted by our model, the power backing the US negotiating team was key to explaining this highly protectionist rule of origin, but because the issue was of medium rather than high scope, the US negotiators yielded to Canada and Mexico on some important issues.

Unlike NAFTA, the Canada-US Free Trade Agreement (CUFTA) had adopted a less protectionist "fabric forward" or "double transformation" rule. Trade between Canada and the US, however, did not represent a significant share of the American foreign trade in this industrial chain, as the real competitors were in Asia.

The CUFTA did not change this trend in foreign trade for the American textile firms, which, in contrast to the American apparel manufacturers, had survived an intense process of industrial concentration and

the incorporation of new technologies. In the early 1990s a few giant textile firms, concentrated in North Carolina, South Carolina and Georgia¹¹ controlled the industry. Even though they had also been losing ground to Asian producers, they were in much better shape than American apparel firms and were still able to compete in international markets.¹²

The possibility of a North American free trade agreement that included Mexico, therefore, was perceived by the American textile industry as an opportunity not only to increase its production and exports, but also to regain the American apparel market (Johnson, 2000). If the textile industry could get the NAFTA negotiators to adopt a “yarn forward” rule of origin, this would allow American textile firms to export their products duty free to Mexico, where American yarn and fabric could be transformed into apparel using lower labour costs. Apparel would then be exported duty free to the American market. Besides getting access to lower labour costs, the comparative advantage in transportation costs, and the lower tariffs—which after a few years would be removed—would give the American textile industry the capacity to out-compete Asian producers in the American market. This strategy would create a virtuous circle. On the one hand, apparel production in Mexico would foster the demand of American textile exports. On the other hand, American textile’s biggest firms designed a strategy to expand into apparel production. They would either create their own maquiladora plants in Mexico—as some of them had already done before NAFTA—or enter into joint-ventures with Mexican apparel producers.

In Washington the powerful textile lobby became actively involved in the NAFTA negotiations. There was some resistance by the apparel lobby as well as from labour. The former by the early 1990s was mostly composed of American firms importing apparel and therefore opposed a rule of origin that would require a “triple transformation” in the North American countries. Such a rule would force them to pay tariffs on their imports of apparel from Asia (Lamar, 2000). That difference would mean higher prices than for the duty-free NAFTA apparel and would drive them out of the market. Compared to textiles, however, the apparel lobby was relatively weak as was the shrinking organized labour movement in textiles.¹³ As did most other American unions, it opposed NAFTA on the basis that the agreement would accelerate the process of exporting American jobs, which would go to Mexico. As occurred in most US industrial sectors, the unions were very determined in their opposition to NAFTA. In the end, they chose exit instead of voice (Mayer, 1998:73).

The US did not present Mexico and Canada with a take-it-or-leave-it position with regard to the ROO of textile and apparel (or automobiles). It is necessary, then, to outline the positions of the other countries.

Since 1974, as a result of the Multi-Fibre Agreement, Mexican textile exports to the United States were subject to quotas. The main issue

for Mexico was to get rid of the quotas. Other issues, like the timing and the level of tariffs during the phase-out period or the rule of origin, about which Mexico was willing to make concessions, were subordinated to the removal of quotas.

Mexico's initial position was in support of a "double transformation" or "fabric forward" rule of origin (Espinosa, 2000: 372). All final products to be traded by the three North American countries would have to be made with fabric manufactured in those countries and then cut and sewn in the same countries. In other words, North American firms would be free to import natural and synthetic fibres or yarn to be used to manufacture fabric and apparel, and qualify for NAFTA's rates. Some exceptions were allowed, for example, firms could import fabric from non-North American countries and still get the preferential treatment to smooth transition in special market niches.

Canada shared Mexico's initial position regarding the rule of origin. The Canadians actually felt that the interests of its industrial chain were well protected by CUFTA. Canada's position was that there should be no negotiating group for textile. CUFTA's rules should be incorporated into the new agreement. The Canadian textile and apparel industries were not competitive in the massive market segments of low-priced apparel. Asian producers had wiped out most Canadian manufacturers. However, Canada had an important industry, mostly concentrated in Quebec, that focused on wool suits and high-priced, design-intensive apparel. For this niche access was vital to non-North American imports of special kinds of fabrics and other inputs for luxury clothing. The CUFTA with its "double transformation" rule provided that preferred foreign trade environment for Canadian firms.

In sum, there were important divisions in the three countries' preferences. At the start, American negotiators proposed the adoption of the textile industry's preference for a "yarn forward" rule of origin (Cameron and Tomlin, 2000:91), ignoring the politically insignificant opposition of the apparel lobby and the unions. Regarding the rule of origin, the textile and apparel firms had agreed on seeking a "fabric forward" rule. This position was the one adopted by the Mexican negotiators who had, in fact, participated in a domestic bargain where the two segments of the industrial chain agreed to the "fabric forward" rule (Espinosa, 2001). Canada then joined forces with Mexico, as Canadian negotiators intended to keep alive the "fabric forward" rule of CUFTA.

According to the different accounts of the negotiations, the first step to close the initial gap was a deal cut between the United States and Mexico (Cameron and Tomlin, 2000: chap. 7). The deal was simple: the United States accepted the removal of import quotas to Mexican imports in exchange for the Mexican support of the "yarn forward" rule of origin (Espinosa, 2000, 2001). This was not a deal imposed by the strongest

party; the deal made sense for both sides. Mexico had its priority number one fulfilled (the removal of import quotas) and, for United States, the Mexican support for the rule put stronger pressure on Canadian negotiators to accept it. Simultaneous with the moves that were being made by the government negotiators, the American textile lobby was talking directly to Mexican and Canadian trade associations to see what concessions they were seeking. US textile makers tried to convince the Canadians and Mexicans that the “yarn forward” rule would actually benefit all sides: it would lead to an authentic regional industrial chain, which would be able to recapture the regional markets from Far East producers. The American textile lobby played a crucial role. Textile makers opened up communication channels among the trade associations of the three countries, as well as between them and the government negotiators (Johnson, 2000).

The next step was to convince the Canadians to go along with the “yarn forward” rule of origin. This became one of the most difficult points to negotiate in NAFTA (Cameron and Tomlin: Table 8.2). Again, instead of the US imposition, the solution was found through a US concession to Canada, which in practice represented an important exception for the Canadian industry regarding the rule of origin. This entailed annual quotas for yarn and fabric imports that “do not meet the rule of origin but still qualify for the preferential treatment” (Hufbauer and Schott, 1993:44). The text of NAFTA refers to this mechanism as “tariff preference levels” and it allows Canadian apparel producers to keep importing the yarns and fabrics they need to maintain production in the market niche of design-intensive or luxury apparel goods. Thanks to this exemption, these goods qualified for the preferential duties granted by NAFTA.

The result, then, was a negotiated settlement that fulfilled the US demands but did not impose undue hardships on the Mexicans or Canadians. As expected for this medium-scope issue, power asymmetries set up a framework, but power alone did not allow the United States to impose a policy on the other countries without offering important concessions.

Conclusion

With this study we hope to correct key deficiencies in the existing literature on NAFTA specifically and regional trade agreements generally. First, we seek to correct a theoretical oversight in the literature on regional economic negotiations. To date, studies have overlooked the fact that negotiations take place at different levels of scope. Some issues being negotiated matter a great deal to negotiators because they can potentially impact vast swaths of their societies, polities and economies. These issues can

be deal-breakers and force negotiators to seriously consider their fall-back option of no agreement. In such areas of high scope, the negotiators representing the most powerful state dictate outcomes. But such is not the case for low-scope issues, where the interests and strategies of domestic interest groups drive negotiations. It is only in the areas of medium scope that traditional theories of regional trade negotiations gain real purchase. Here, preferences, bargaining strength and credibility all shape outcomes. The scope of the issue must thus be considered at the first node of analysis.

While our discussion has focused on NAFTA, the model might be generalized to any regional or global trade agreement. Germany, France, and the UK may dominate some aspects of European Union bargaining, but smaller countries should have success in dealing with issues that are not continuously in the headlines. Similarly, while Brazil dominates South American trade agreements, the complexity of the bargain must allow even Uruguay and Paraguay to win some important concessions.

The key concern for all partners to an agreement is in weighing the totality of the agreement. Given their weight in bargaining, the most powerful countries can set the framework. Once set, however, the power dissipates, because they will be unwilling to forego the framework over less crucial issues. A different bargaining logic, therefore governs low- and medium-scope negotiations. Even what we have termed low-scope issues, however, are of vital importance, as they define the flow of trade among the partners and thus they determine the fate of growers, manufacturers, and workers. In sum, the importance of these issues, combined with the differentiated negotiation logic that drives them, suggests a continued need for disaggregating trade pacts in order to expand our understanding of these complex processes.

Notes

- 1 President Salinas is cited as stating that a factor pushing Mexico toward a regional trade agreement was the fear that European investment would be diverted to Eastern Europe once it integrated with the European Community (Fernandez and Portes, 2000).
- 2 Source: Banco de Mexico and Inegi statistics.
- 3 Though some individual tariffs meet our criterion of middle- or high-scope, deleting this small number of products from our database would require a more explicit operationalization of scope than is possible in this paper. Further, since there are thousands of products in the database, removal of the small number of products that could fall into medium- or high-scope categories would have minimal effects on our analysis.
- 4 The low number in Canada is in part a result of the earlier Canada-US Free Trade Agreement.
- 5 For example, if a product had a 10 per cent tariff previous to the agreement, the rent to the domestic producer over 10 years would be 100 per cent. If the tariff on that product were immediately reduced to zero, the domestic producer would lose the full

- 100 percent. The longer the phase-out scenario the more limited is the lost rent. If the phase-out occurred over 10 years, the lost rent would be $1+2+3+4 \dots = 55$ per cent.
- 6 The US data, for example, covers the nearly 200 sectors defined by US Government Standard Industrial Classification (SIC). Our US data are taken from the Annual Survey of Manufacturers and the Economic Census of Manufacturers, while the Canadian information comes from that country's Annual Survey of Manufacturers and Mexico's data are available from their National Institute of Statistics, Geography, and Information (INEGI; Instituto Nacional de Estadística Geografía e Informática). Since the database is now sectoral rather than product-based, we have taken an average of tariffs within the sector.
 - 7 Trade Agreements Act of 1979 and the Trade and Competitiveness Act of 1998.
 - 8 There are actually two ways to calculate NAFTA's general rule of origin. When the net cost of the product is used, the rule is 50 per cent. However, if the transaction value is used, then the rule is 60 per cent (Ortiz, 2000).
 - 9 It is not really possible to have a standard measure expressed in a percentage in the case of the textile-apparel rule of origin. Considering the four transformations involved in the productive chain (fibre-yarn-fabric-apparel), we get a 75 per cent rule of origin. Yet, in terms of value of the end product, fibre does not represent a quarter, but certainly less. So, depending on the specific apparel product, the actual ROO would be closer to 80–95 per cent (Espinosa, 2001).
 - 10 See Hufbauer and Schott (1993), Mayer (1998), and Espinosa (2000) for more discussion about NAFTA and its rules of origin.
 - 11 In 1997 the textile gross product of these three states represented 58 per cent of total American textile gross product (Textile Highlights, 2000:32).
 - 12 In 1991, the year the NAFTA negotiations began, the deficit of the industrial chain reached \$24.5 billion; 93 per cent of that amount were apparel imports, and only 7 per cent were textile imports (Textile Highlights, 2000:25)
 - 13 Between 1989 and 2000 the textile-apparel industrial chain lost approximately 30 per cent of its workforce (Schavey, 2000).

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