Getting to "No:"
Defending Against Demands in NAFTA

Antonio Ortiz Mena L.N.
International Studies Division
CIDE

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On August 12, 1992 Mexico, the U.S. and Canada finally completed the negotiations for the North American Free Trade Agreement (NAFTA), which had started more than a year earlier. They were unprecedented trade negotiations in that they posed Mexico, a developing country, against the world's sole remaining superpower in an attempt to establish a deep integration agreement.[2] There was little precedent to fall back on, and it was largely expected that the U.S. would virtually dictate the agreement, given the huge power asymmetries between the negotiating parties.[3]

During NAFTA negotiations, Mexico was loath, because of the nationalization of the oil industry in 1938 and the weighty symbolic importance oil still had (and has) in Mexican politics, to permit U.S. participation in Mexico's oil industry. For its part, the U.S. government was very interested in gaining access to Mexican oil reserves in terms of foreign investment access and supply guarantees. It was a complicated negotiating situation for Mexico, to say the least. As Jagdish Bhagwati has recently stated, "If I were a consultant for Argentina or Brazil, I would tell them not to join NAFTA, because that is

[1] I would like to thank John Odell for the challenged he posed in making me think about the negotiation process, after I had spent a number of years studying international economic relations nicely skirting the topic. Jaime Serra Puche, Mexico's Trade Minister during NAFTA negotiations, and Jaime Zabludovsky, Mexico's Deputy Chief NAFTA negotiator were kind enough to share their experience and insights on NAFTA energy negotiations with me. For that I am most grateful, and I hope that their views are conveyed faithfully in this paper. Any shortcomings in that regard are my exclusive responsibility.

[2] Lawrence 1986 might argue that NAFTA is not a deep integration agreement. While it is a free trade agreement and not a customs union or common market (which are regarded as deep integration agreements by Lawrence), the scope and coverage of NAFTA went way beyond most previous trade agreements. See Hufbauer and Schott 1993 for a summary of NAFTA.

[3] In this paper I concentrate on Mexico U.S. negotiations, and only tangentially touch upon Canada's role. When reference is made to U.S. negotiation results, it should be understood that they also apply to Canada.

where the U.S. plays the game as they want to […] just look at Mexico. They are sweating tears […] because now the United States have started to negotiate free trade agreements with other countries. The advantages they [Mexico] had have disappeared and the concessions they made to achieve the agreement will stay in place, like the rights for oil exploration and intellectual property rights [….] The United States is using all its lawyers and all its lobbyists to impose subtle barriers, above all in bilateral agreements. And developing countries sometimes do not have either the time or the resources to follow all these developments."[4]

Well, not exactly. While the effects of preference erosion for Mexico are all too real, Bhagwati has got the story wrong. Mexico did not grant the U.S. any rights pertaining to oil exploration. In fact, "basic energy remains immune to free trade" (Hufbauer and Schott 1993, 5). How was Mexico able to successfully defend itself against value claiming by the U.S.? Did it have to pay a dear price for it) Are there any lessons from Mexico's experience in negotiating with the U.S. that may be used by other developing countries facing unwanted claims?

This paper examines the role played by Mexico's strategy choice, negotiator beliefs, domestic politics and markets on the outcome, that is, on the successful defense against value claiming by the U.S. during NAFTA energy negotiations. It proceeds as follows: section one presents Mexico's negotiating position in a number of energy related issues, and the outcome of negotiations in each of these issues; section two presents alternative

[4] "Argentina y el ALCA: los Consejos de un Gurú," *Clarín,* Argentina, July 27, 2003. Free translation from the Spanish by the author.

explanations that leave out the negotiations process and notes how they cannot account for the outcome, and then addresses key concepts developed in Odell 2000 to account for the outcome of NAFTA negotiations in energy.[5] The final section summarizes the findings, considers the extent to which the lessons derived from Mexico's experience in NAFTA can be applied to other situations where defense against value claiming is a central part of the negotiation process, and suggests avenues for further inquiry into this topic.

I. The Facts on Energy: Mexico's Negotiating Position vs. Negotiation Outcomes

Mexico has vast oil reserves, and the U.S. is the world's major oil importer. As such, it wanted to have access to Mexico's oil, both for business-related purposes and to secure access to Mexican oil during times of energy crisis. For its part, Mexico badly needed investment in its oil sector to keep up with domestic demand and to make the most out of its oil export earnings. The U.S. in turn had a surplus of natural gas and Mexico a growing deficit (Hufbauer and Schott 1993, 34). This seems a case of classic comparative advantage, and in terms of NWE terminology, there seemed to be a very wide positive zone of agreement.

However, for domestic political reasons Mexico did not want to include energy in NAFTA negotiations. It initially proposed an exemption of energy and basic petrochemicals from NAFTA negotiations and did not want to establish a working group

[5] Odell 2000 is also referred to as NWE (Negotiating the World Economy) throughout this paper.

on energy. The U.S. was against this position, and insisted on establishing a working group on energy (Maxfield and Shapiro 1998, 98). While Mexico in the end acquiesced to the establishment of an energy working-group, it did not flinch from its specific positions regarding energy.

The main issues where Mexico did not want to yield to U.S. pressures were investment in energy-related areas and energy crisis commitments. These concerns were expressed in the "Five NOs" regarding the role of energy in NAFTA negotiations. These NOs are the following:[6]

i. There will be no foreign investment in the exploration, exploitation and refining of oil in Mexico. These areas are to remain under state control.
ii. There will be no risk contracts with payment in oil reserves.
iii. There will be no energy supply commitments.
iv. There will be no liberalization of gas imports; all imports must be done through PEMEX.
v. There will be no foreign retail gasoline outlets.

In addition, Mexican President Carlos Salinas publicly stated that all "strategic" economic sectors covered by Article 28 of the Constitution (basic petrochemicals,

[6] As will be seen in the next section these issues, which were not a matter for negotiation in Mexico's view, were made public on many occasions by President Salinas. See Salinas 2000, 39-157 passim). Trade Minister Serra also made frequent mention of these NOs. Interview with Jaime Serra Puche.

railroads, and electricity, among others) would remain under state control (Salinas 1994, 401).[7]

Given that energy negotiations in NAFTA covered a wide array of topics, for ease of discussion I have classified them in four areas: investment, trade, energy supply commitments, and other issues. In each area Mexico's position is set out, and then compared with the negotiation outcome.

Investment

Three of the five NOs refer to investment-related commitments. Investment, together with energy crisis commitments (discussed under "other topics," below), was the most contentious issue of NAFTA energy negotiations, if not of all NAFTA negotiations. Mexico's position on foreign investment in its oil industry was clear cut: no foreign ownership of oil reserves, no foreign production of primary petrochemicals,[8] no foreign participation in the exploration, exploitation, and refining of oil and natural gas, no risk-sharing contracts,[9] and no foreign participation in the retail gasoline market.[10]

[7] Serra also insisted on several occasions that the Constitutional limits to foreign participation in the oil sector were non negotiable. See Serra 1994, 537,558, inter alia.
[8] Primary petrochemicals, also called basic petrochemicals, are produced directly from oil, while secondary petrochemicals are produced from primary petrochemicals. Some strictly secondary petrochemicals may also be classified as primary due to their "strategic" nature.
[9] Risk-sharing contracts stipulate that companies jointly engaged in oil exploration will have joint ownership of any oil reserves found.
[10] Interview with Jaime Serra Puche.

In electricity, Mexico's position was not as steadfast as in oil, although it did not envisage significant privatization of the industry. It also fell within Article 28 of the Constitution, which provided for state control over "strategic" sectors of the economy.

The U.S. "pushed for as much liberalization as possible in primary and secondary petrochemical production and in the exploration, drilling and refining of oil and natural gas. The United States, furthermore, wanted immediate, rather than phased-in concessions" (Maxfield and Shapiro 1998, 99).

In the end, U.S. gains in investment were limited in electricity, and negligible in oil and gas: "Mexico succeeded in keeping its hydrocarbon industries closed to foreign participation. NAFTA specifically reserves to the Mexican state the right to control all activities and investment in the exploration, exploitation, refining, transportation, storage, and distribution of crude oil and natural gas, as well as the production, transportation, storage, and distribution of artificial gas, primary petrochemicals, and all other goods obtained from the refining of crude oil and natural gas" (Maxfield and Shapiro 1998, 99). In addition, risk-sharing contracts are not allowed, nor is foreign participation in the retail gasoline market. The U.S. did not attain its goals in key investment areas in the oil and gas sectors.

It did gain greater access to investment in petrochemicals. Basic petrochemicals were reclassified; 14 of the 19 basic petrochemicals that were present at the outset of NAFTA negotiations were liberalized, although 3 new basic petrochemicals were included in the list, so that 8 products remained off limits to foreign investors. A 40% cap on foreign investment in secondary petrochemicals was lifted gradually. Majority foreign investment in final petrochemicals was unilaterally liberalized since 1989.

Electricity was also liberalized. Under NAFTA, U.S. investors are able to acquire, establish and operate electric generating facilities for their own use of for cogeneration. Nonetheless, all sales of surplus power must be done through CFE.[11]

Coal was regarded as any other sector when it came to making exchange of concessions. The 40% limit to foreign investment in coal mines and facilities was lifted after a phase out period pf three years.

Trade

Cross border trade in gas and electricity was also a subject of interest in NAFTA negotiations. Mexico wished to maintain control over cross border trade in gas and electricity, while the U.S. wanted a strong degree of liberalization.

NAFTA did liberalize trade in gas and electricity, but with severe restrictions. While it allows for U.S. suppliers to negotiate contracts with and sell gas and electricity to end users in Mexico, all sales must be approved by PEMEX[12] and CFE, respectively, and

[11] CFE is the Comisión Federal de Electricidad, the government owned electricity monopoly (Federal Electricity Commission).
[12] PEMEX (Petróleos Mexicanos) is the state oil monopoly.

their infrastructure must be used to make the transfer. The Mexican government thus retains a veto over cross border sales of gas and electricity.

A much less contentious issue was trade in coal. Mexico had a 10% tax on coal. The U.S. requested the elimination of the tariff, and Mexico acquiesced (Hufbauer and Schott 1993: 36)

Finally, trade in energy related equipment was also the subject of negotiations. Mexico treated it as any other issue, and negotiated with the U.S. regarding its sales of equipment to Mexico. There were discussions on rules of origin and tariff phase out calendars, but the end point was clear so that, at the latest, ten years after the entry into force of NAFTA all energy equipment sales to Mexico would be tariff free.

Energy Supply Commitments

The U.S. and Canada, as members of International Energy Agency, had signed and agreement in 1974 limiting the amount by which energy exports to member countries could decrease during a crisis, and reaffirmed their commitment in the Canada U.S. Free Trade Agreement, which had entered into force in January 1989.

Mexico stated publicly, at the outset of negotiations, that it would not make any commitments regarding energy supplies (NO number 3).

The U.S. and Canada "pushed adamantly for a Mexican commitment not to restrict energy exports to the other NAFTA countries during times of energy crisis" (Maxfield and Shapiro 1998, 100). Mexico steadfastly refused to accept such a provision and remains unbound by commitments in this area.

Other Issues

- Procurement

Mexico stated at the outset that, regarding procurement, everything was on the table. The U.S. had great interest in participating in PEMEX and CFE contracts (Mexico is not a signatory to the GATT Code on Government Procurement). As a result of NAFTA, a threshold of 250,000 USD was established, so that federal government enterprises not exempted from the Public Procurement chapter will open all tenders over this amount to North American competition. PEMEX and CFE were not exempted. Foreign participation in PEMEX and CFE contracts was fully liberalized after a 10-year transition period.

- Performance contracts

While Mexico objected to risk sharing contracts (NO number 2) and its objection was recognized under NAFTA, it was not opposed to using performance contracts as a bargaining chip. Under performance contracts, a service provider may earn a bonus if it exceeds certain pre specified contract targets.

The U.S. was interested in getting Mexico to accept performance contracts in the energy sector and Mexico acquiesced, although bonuses can only be paid in cash and not in kind.

- Preferential energy prices

The issue at stake was that Mexican firms were getting lower oil and electricity process than their foreign competitors in Mexico. Mexico was not unduly concerned about this issue an in any case was gradually reducing subsidies across the board, so it acquiesced to U.S. demands that it end preferential energy prices.

In short, Mexico had a clear stance in energy negotiations. It spelled out its five NOs and the fact that its Constitution would not be amended to accommodate NAFTA. In principle, everything else was amenable to negotiation. Despite strong and consistent U.S. pressures to liberalize investment in the oil sector and subscribe to energy supply commitments, Mexico was able to fulfill its basic defensive aims in the NAFTA negotiations. How it managed to do it is examined in the following section.

II. The Explanations: Successful Defense Against Value Claiming

The Puzzle Revisited

The empirical puzzle can be restated in a succinct manner: how was Mexico able, despite extremely strong U.S. insistence and most political pundits' expectations, to keep the oil sector largely out of NAFTA negotiations, and to avoid concessions in terms of energy security when both the U.S. and Canada "pushed adamantly" to make Mexico acquiesce.

The outcome is a puzzle if one places pride of place to Realist explanations that hinge on power disparities (Krasner 1990) and on the specific needs of the U.S. in terms of energy security, with its southern neighbor having vast oil reserves and the precedent of having recently obtained energy security commitments with Canada under the CUSFTA. There are, of course, other stands of thought regarding the effects of asymmetry. For instance, Keohane (1990) argues that the interaction between large and small states need not necessarily lead to asymmetrical results, partly as a result of preference intensity, but the framework he develops is not adequate on its own to account for Mexico's success or at any rate runs the risk of leading to *post-hoc ergo propter hoc* explanations. Likewise, analyses of NAFTA negotiations that look at initial positions and outcomes and conclude that the results show that Mexico gave precedence to sectoral aspects of the negotiation while the U.S. favored trade principles (Maxfield and Shapiro 1998) also runs the risk of post hocery, unless careful attention is paid to the process that led from initial positions to eventual outcome.

Finally, pundits in Mexico pointed to the fact that Mexico would have to pay dearly to obtain its offensive aims in NAFTA, and that in any case the relative dearth of experience with international trade negotiations of the Mexican team would mean that U.S.

negotiators would ride roughshod over them. Throughout the negotiation process, several Mexican newspapers reported the Mexico had "given in" on the oil issue, and simply thought it would be impossible to conclude a satisfactory negotiation for Mexico in terms of market access without relenting on oil.[13]

From a theoretical perspective, the case can shed light on the way in which small states negotiating with large states can defend themselves effectively against unwelcome demands by the latter. Specifically, it explores the way in which different process-related variables affect the likelihood of successful defense against value claiming. The focus is thus not on defensive value claiming, but on the options available to a small state against offensive value claiming. Before turning to the role that strategies, cognitive biases, domestic politics and markets played in NAFTA oil negotiations, I deal with alternative explanations.

Alternative Explanations

Stephen Krasner (1990) holds that cooperation and the ensuing creation of international institutions is difficult when states with very different power capabilities interact, as a result of both large state and small state incentives. Large states will prefer to act unilaterally and to be unbound by restrictive accords with small states. The latter will be hesitant to negotiate agreements that will increase its interactions (and thus vulnerability) with large states, will not be able to effectively resist noncompliance by the large state

[13] *El Financiero* stuck to this line of reasoning throughout the negotiations. Among the pundits expecting Mexico to "give away the shop" were two leading left-leaning intellectuals, Adolfo Aguilar Zinser and Jorge Castañeda.

while the small state will have to comply, will experience weakened autonomy, and will in any case have a better option in bargaining multilaterally, where coalitions are possible. These considerations led him to conclude that a trade agreement between Mexico and the U.S., similar to the one established between Canada and the U.S., was extremely unlikely (Krasner 1990).

Krasner is evidently wrong on two counts. First, NAFTA was signed just two years after publication of his article. Second, Mexico was able to successfully negotiate with the U.S.; energy negotiations in NAFTA were to a large extent bilateral, for the U.S. and Canada had reached an agreement on the issue under the CUSFTA. Indeed, as will be seen below, in the case of energy supply negotiations the U.S. and Canada were pitted against Mexico.

One might argue, following an earlier work by Krasner (1978), that U.S. national security interests are the driving force behind its behavior in the world political economy, and that security concerns explain why it chose to be bound by a restrictive accord instead of acting unilaterally in its relations with Mexico. However, the fact the investment in the oil sector and energy supply commitments, which were dear to U.S. negotiators, were left out of the accord, raises questions about the alleged overdriving force that security concerns should have had in shaping U.S. negotiation aims, and more so results.

In terms of Mexico's securing an agreement where it obtained its main offensive and defensive aims, and where one of the offensive aims was precisely compliance guarantees through legalized dispute settlement, means that an approach to economic interaction among states of different power capabilities that leaves out process has difficulty in accounting for a key NAFTA outcome: energy negotiations.[14]

Keohane (1990) does not expect necessarily asymmetrical results from asymmetrical interaction, nor does he see great impediments to international cooperation under this setting. He argues that in some issue areas (such as migration and drugs) it is difficult for large states to achieve their policy goals on a unilateral basis, so they have incentives to cooperate. Regarding small state leverage in international negotiations, he argues that preference intensity can sometimes compensate for the effects of power asymmetry, as can the fact that it is possible for small states to strike alliances with domestic groups in the large country, as part of its negotiating strategy.

While Koehane's framework does contemplate the possibility of small states striking bargains with large states that are not the mere reflection of large state interest, his intuitions do not allow for a systematic analysis of the conditions under which "weak" states may perform best in their negotiations with large states. In particular, a focus on preference intensity can lead to tautological reasoning. We need to understand what makes for small state influence, beyond generalities such as preference intensity and their ability to play the domestic politics game in the large state.

[14] See Ortiz Mena L.N. (2001) for coverage of compliance concerns and dispute settlement in NAFTA negotiations. The model therein developed attempts to account for symmetrical outcomes under conditions of asymmetrical bargaining by redefining conceptions of power and vulnerability, while still leaving out process.

In terms of specific analyses of NAFTA negotiations, the works are relatively few. Most of them deal with negotiation outcomes, and the pros and cons of the bargains struck (Hufbauer and Schott 1993, Leycegui and Fernandez de Castro 2000, Borja 2001, inter alia) rather than with the reasons for the observed gains and losses reflected in the legal text. Maxfield and Shapiro (1998), Mayer (1998), and Cameron and Tomlin (2000) are among the few works that deal with the reasons behind the negotiation outcomes.

Following a sectoral analysis, Maxfield and Shapiro attempt to assess who "won" and "lost" each sector. Regarding oil, their assessment is that the U.S. made some gains given the inclusion of energy in the negotiations despite initial opposition from Mexico and by the mere fact that there is an energy chapter in NAFTA, but lost on foreign participation, made only limited gains in market access and made no headway on energy exports in times of crisis. They conclude that "On balance, Mexico came out ahead in this chapter of the NAFTA negotiations" (Maxfield and Shapiro 1998, 101).

Their explanation for the observed outcome is, however, unsatisfactory. Their focus is on initial preferences and negotiation outcome, and largely leave out the negotiation process. They note that the U.S. tended to win in matter of trade law and principles (such as intellectual property rights and dispute settlement), while Mexico tended to win on sectoral issues, such as oil and agriculture, and conjecture that this may the result of trade politics being more principles-based in the U.S. and sectorally-based in Mexico.

This, however, is a matter left to be explained, and there is considerable evidence that can yield opposite conclusions. For the U.S. side, classics such as Schattschneider (1935)[15] and Lowi (1964) and more recent work with very nuanced analyses such as Destler (1986), O'Halloran (1994), and Mayer (1998) nevertheless point to the continuing importance of interest groups in the formulation of U.S. trade policy. On the other hand, Mexico opened up its economy on a unilateral basis in the 1980s and 1990s without strong pressure group action in favor of free trade, and a significant number of groups clamoring for continued protection (Ortiz Mena L.N. 2003a). In this view, U.S. trade politics could be portrayed as sectoral and Mexico's as principles based, following Maxfield and Shapiro's formulation. They suggest that research dealing with the relative insulation of trade policymakers and business preferences may shed some light on the NAFTA bargain.

A better understanding of negotiation outcomes thus requires, at a minimum, a closer analysis of the role played by domestic politics, and that is precisely what Mayer sets out to do.[16] Following Putnam (1988), he sees NAFTA oil negotiations as follows.

In his view, the U.S. was interested, from a business perspective, in having Mexico open up its oil sector, which would benefit U.S. oil companies and their suppliers; from a national security perspective, secure oil supplies from Mexico would mean less reliance

[15] Interestingly, Maxfield and Shapiro do mention Schattschneider, but do not follow upon his arguments.
[16] In actuality, Mayer has a more complex model , which incorporates three levels of analysis (international, domestic, and individual), and three modes of politics (rational choice, regime theory, and symbolic response) as needed, depending on the negotiation issue and aspect to be analyzed (Mayer 1998, 13-28). For the specifics of the NAFTA negotiation (as opposed to the decision to negotiate, the fast track renewal negotiations, or the ratification), he largely focuses on domestic politics, or more precisely on a two-level bargaining model based on Putnam (1988).

on “insecure” Middle Eastern supplies. Both of these considerations “weighed in” on key Texan political figures which were to play an important part in NAFTA negotiations: President George Bush, Secretary of State James Baker, Secretary of Commerce Robert Mosbacher, and Senate Finance Committee Chairman Lloyd Bentsen (Mayer 1998, 118-118).

While Mexico needed foreign investment to modernize its inefficient oil infrastructure, domestic politics played a significant role in determining its negotiating position. Since the 1938 nationalization of the oil industry (largely affecting U.S. and UK interests), oil had become a symbol of national sovereignty. In the end, domestic politics and the symbolic importance of the oil industry outweighed purely economic considerations, and at the outset of the negotiations the Mexican government spelled out its five NOs regarding energy.

Following comments by U.S. Deputy Chief Negotiator Charles “Chip” Roh on the logic behind Mexico’s stance, and the reasons for the position taken by U.S. oil firms, Mayer ventures that the strong position taken by Mexico may have been the result of advice given to them by Canadians, regarding the importance of stating explicitly at the outset of negotiations what is off limits, for otherwise the U.S. will “beat you and beat you again.” In addition, the strategy may also have been designed to play a role in Mexican domestic politics, so Mexicans could say that they had been tough on oil, and thus the rest of the deal would look more palatable. The U.S. implicitly understood this, and from the outset expected to “come short” on oil, but expected to compensate with gains in other areas.

Finally, the U.S. oil industry had a clear sense of the possible and did not exert undue pressure after an initial try (Mayer 1998, 119).[17]

In interpreting the outcome given these incompatible preferences, Mayer notes that for the U.S. one of the initial appeals of NAFTA had been improved access to Mexican oil, both in terms of investment and secure supplies, and that energy had been a most difficult issue from the outset of negotiations. Despite Mexican protestations, U.S. negotiators were not convinced that Mexico would not budge on the issues of foreign investment in the energy sector and on oil supply guarantees. Near the end of the negotiations Serra threatened to walk away if the U.S. insisted on the oil issue, and the message was also conveyed to the U.S. delegation by President Salinas' chief of staff. The U.S. relented when it realized that Mexico would not budge, and at the same time the U.S. was by then in a hurry to wrap up the negotiations. It opted to make some gains in the energy procurement area instead.

In Mayer's view, then, two factors were key in determining the outcome of the energy negotiations: Mexico's domestic political constraints and domestic political developments in the U.S., which put pressure on Bush to wrap up the negotiations. The political costs that would have been borne in Mexico by acquiescing to U.S. demands on investment in oil and energy security would have been so high that no issue linkage (concession) by the U.S. would have compensated for it, and the U.S. finally came to understand this (Mayer 1998, 152-154).

[17] The quotes in this paragraph refer to Chip Roh's views, as transcribed by Mayer.

As the November 1992 U.S. presidential election approached, Bush's approval ratings continued to deteriorate, and Republican political operatives decided it would be important for Bush to announce the successful conclusion of NAFTA negotiations during the Republican National Convention, which would take place in mid-August. They viewed the agreement as a political asset for Bush, that at the same time could be used to pressure candidate Bill Clinton to stop fudging on the issue and support NAFTA, lest he be accused on pandering to special interests (v.gr. labor). With that aim in mind, a negotiating session in the infamous Watergate complex started on July 29, and ended until shortly after midnight, August 12. Energy was one of the issues settled until the final stretch (Mayer 1998, 139-140).

Mayer's account of the energy negotiations is not inadequate, but rather incomplete. With his detailed analysis of domestic politics in the U.S. and Mexico, and how they played into the international negotiations, he goes farther than is possible with Krasner and Koehane's basically systemic approach, and his explanations do not have a post-hoc tinge, as is the case with Maxfield and Shapiro. However, several important questions are left unanswered.

For instance, why was it that Mexico's domestic political constraints were not taken at face value by the U.S. at the beginning of negotiations but were taken so at the end? Did the urge to wrap up the negotiations make the U.S. relent on the issue, or did its conception of Mexico's resistance point actually change? Why wasn't the U.S. able to convince Mexico that its own resistance point demand an agreement that included greater access for U.S. investors in the Mexican oil sector, or oil supply guarantees, or both? Was not Mexico also under pressure to conclude the agreement, and if so why didn't the U.S. use that fact to force Mexico into granting additional concessions in this key sector? More generally, when is a domestic political constraint to be believed, and how can it override otherwise substantial power differentials among negotiators? If Mexico did manage to exclude a significant scope of its energy sector from NAFTA negotiations, did to have to pay a high price for it in terms of negotiation tradeoffs? Before turning to these issues following the NWE framework, I assess how well Cameron and Tomlin (2000) deal with them.

Cameron and Tomlin provide a very detailed account of NAFTA negotiations by focusing on several key junctures in the process, and analyze the events through several approaches which include Neorealism, Neoliberalism, two-level game theory and their own "integrated argument," which encompasses elements of the previous three approaches and negotiation theories. The key additional ingredient that is incorporated in the integrated approach is the notion of subjective utility attached by the negotiators to their non agreement alternatives at any given point in the negotiation, which is in turn affected by the degree to which negotiators are risk averse. These considerations lead Cameron and Tomlin to make predictions in three issues, which are compared to the predictions made for those same issues by Neorealism, Neoliberalism, and the two-level game approach.

They expect that cooperation under anarchy among asymmetrical players will not necessarily lead to asymmetrical results, the reason for this being that the weaker state may have a better non-agreement alternative than the stronger one, and it may also have a lower discount rate. In terms of domestic politics, they expect negotiators of powerful states to be less responsive to weak state demands vis-à-vis domestic constituents, and vice-versa, and that there will be a pattern of delayed mutual responsiveness (a bargaining process) in which the lower the subjective utility awarded to its non agreement alternative, the more it will perceive the agreement in terms of gains over its best alternative to a negotiated agreement (batna), the more risk averse it will be to achieve those gains, the less willing it will be to risk the agreement by withholding concessions, and the more concessions it will offer in order to obtain an agreement (and vice versa) (Cameron and Tomlin 2000, 15-32). How well does the Cameron and Tomlin approach allow us to understand the outcome on NAFTA energy negotiations?

Regarding asymmetry, Cameron and Tomlin's approach yields equivocal results. They state that Mexico was the demandeur and wanted NAFTA "very badly" (Cameron and Tomlin 2000, 165), and that "the most important asymmetry lay in the fact that Mexico needed the United States much more than the United States. The Mexicans had examined the alternatives and had already decided that they preferred NAFTA to anything else available to them" (Cameron and Tomlin 2000, 124). While they recognize that at the end of the negotiations in August 1992 the U.S. was on a rush to conclude in order for Bush to present NAFTA as an important achievement, in an attempt to bolster his flagging ratings shortly before the November presidential election, it is not immediately clear whether the U.S. had more to lose than Mexico from a failure to conclude negotiations successfully. Their focus on the effect of each party's batna on negotiations strategies and outcomes is correct, but the ex-ante specification of batnas to allow clear predictions is very difficult. If only the asymmetry strand of their argument is contemplated, it does not explain why the U.S. relented on oil.

Their views on domestic politics indicate that the U.S. would have pushed harder in terms of U.S. energy lobby interests, as opposed to heeding Mexico's position. What is surprising is that the U.S. pushed for a liberalization of investment in the oil sector throughout the negotiations, but that U.S. oil companies did not exert undue pressure either on U.S. negotiators or directly on Mexican negotiators. "The major oil companies were […] "pretty sophisticated" […] in that they wanted to open up Mexico's energy sector but knew that Mexico would not do this at the behest of the United States" (Cameron and Tomlin 2000, 89-90). Thus, the U.S. pushed hard on liberalization without undue pressure from U.S. interests, and then relented in the face of steadfast Mexican opposition. A strict focus on domestic politics would have predicted less pressure on the investment issue, and cannot account for U.S. attitudes on energy supply commitments, for no specific interest group was pressing for it. By and large, U.S. negotiators were not acting on behalf of interest groups, and relented in the face of the "weak" state's position on all major issues.

The third strand of their argument, on patterns of delayed mutual responsiveness, can be seen as an extension of their parsimonious hypothesis regarding asymmetry. They give ample evidence to bolster their claim that Mexico was very risk averse and, as mentioned above, very badly wanted NAFTA. According to Cameron and Tomlin, during the Dallas ministerial Mexico caved in too soon and gave away concessions to the U.S. (basically in financial services) in order to push along negotiations to an early conclusion (Cameron and Tomlin 2000, 113-19). While Mexican behavior at Dallas coincides with Cameron and Tomlin's expectations, subsequent behavior does not, especially in the energy area. Mexico's high degree of risk adversity should have meant that it should not have been willing to put the whole agreement at risk by withholding concessions.

However, in the final stretch of negotiations which took place in the Watergate Hotel from July 31 to August 12, the Mexicans were "stubborn in their continued refusal to guarantee energy export levels to the United States during times of shortage […], leading Canada to indicate that should Mexico prevail, they would seek to change the [CUS] FTA provisions on this issue" (Cameron and Tomlin 2000, 161-162). With Mexico additionally adopting a maximalist position on procurement regarding PEMEX (it wanted to reserve all contracts for Mexican companies), trilateral discussions were suspended.

In the end, Mexico managed to get away with its five NOs (its main defensive aims), and at the same time to attain its main offensive interests in the negotiation: to ensure affective market access to the U.S., to have a tariff reduction schedule that recognized asymmetries (the U.S. liberalized faster than did Mexico), and to establish an effective dispute settlement mechanism (Salinas 2000, 76). Mexico attained all its negotiation aims without apparently paying too high a price for them. How was this possible, if the U.S.

should have had the upper hand given asymmetry, domestic politics, and negotiation advantages?

Both Mayer and Cameron and Tomlin give partial answers to this question, but ultimately cannot explain how Mexico was able to defend successfully against claiming by the U.S.. In what follows, I examine the issue through the NWE framework.

The Role of the Negotiation Process in Successful Resistance Against U.S. Claiming

Odell (2000) analyzes how process variables (strategies, beliefs, domestic politics, and markets) interact with each other and in turn affect the outcome of international economic negotiations.[18] In what follows I examine the way in which these variables played out in Mexico's attempts against claiming by the U.S. in the NAFTA energy negotiations. In the final section, some hypotheses developed in Chapter 9 and recommendations set out in Chapter 10 of NWE are examined under this light.

There is much we still have to learn about successful defenses against claiming. In NWE, several cases are presented (Brazil defending against the U.S. on instant coffee, Mexico defending against U.S. AD actions on Mexican tomatoes, Japan defending against U.S. on exchanger rate adjustments, and on beef), but as Odell notes "the defending side will […] want to tailor its tactics to the particular situation" (Odell 2000, 210).[19]

[18] The institutional setting is also examined.
[19] The discussion is divided according to analytically separate concepts (the process variables) to clarify the arguments, but it must be borne in mind that their interaction is in reality quite complex.

- Strategies

The first thing that emanates from both NWE and the examination of NAFTA energy negotiations is that there is a vast array of actions available to weak states when they wish to defend against claiming. Negative claiming is just one of the alternatives, and not always the best one, as demonstrated by the Brazilian instant coffee case.

During the pre-negotiation phase (from the announcement that an FTA between the U.S. may be negotiated in early 1990 until the formal start of negotiations in June 1991) Mexico adopted a basically defensive claiming strategy. It maintained that strategy during the early phases of NAFTA negotiations, and when they neared the end Mexico turned to a mixed strategy. The decision to mix strategies in a sequential manner was decided from the outset of negotiations.

Seen in retrospect, NAFTA negotiation started, albeit informally, much earlier than is commonly known. In November 1988 Bush met with president Salinas. Bush proposed an FTA to Salinas, but Salinas declined. During his campaign , Salinas had made no mention of the need to negotiate a free trade agreement with the U.S.. On top of his doubts about the intrinsic convenience of striking such a deal, he was worried that Mexico was about to start negotiations over Mexico's foreign debt with the U.S., and did not want to mix debt negotiations with trade negotiations fearing that possible gains for Mexico in the debt area would be countered by concessions in trade (Salinas 2000, 12).

In March 1990, Canadian Prime Minister Brian Mulroney traveled to Mexico City and mentioned to Salinas that, in his dealings with the U.S. during the recently concluded Canada-U.S. FTA, he had learned that it was very important to make it absolutely clear to them at the outset of negotiations what was simply non-negotiable, in order to avoid unpleasant surprises (Salinas 2000, 60). Salinas heeded Mulroney's advice.

At an economic cabinet meeting in May it was decided that oil would be excluded from the negotiations, according to the precepts of the Mexican Constitution. Thus, a negotiation tactic would be that Mexico's Constitution would not be reformed to accommodate NAFTA negotiations, so Mexico's limits regarding concessions were clear cut. This decision was conveyed to Brent Scowcroft, Bush's National Security Advisor. At the same time, Serra had insisted that IPR be kept as a negotiating card for future use (Salinas 2000, 67).

Despite Mexico's communications with top Bush advisors, the U.S. kept up the pressure to include oil in the negotiations even before they had formally started. For instance, in August 1990 U.S. Commerce Secretary Robert Mosbacher gave an interview to ABC News, where he stated that oil would be in the negotiations, and specifically the issue of oil supply guarantees (Salinas 2000, 71).

The Mexican government realized that it would have to be prepared to counter U.S. pressures in the negotiations, and specifically on the oil issue. Accordingly, Salinas established an inter-ministerial commission, where all NAFTA-related issues would be discussed and cleared before any public airing of views (Salinas 2000, 72). He also established the NAFTA Negotiation Office, which was highly centralized, answered directly to the president himself, and kept recalcitrant members of the Foreign Ministry "out of the loop" (Schiavon and Ortiz Mena L.N. 2001), and favored the creation of COECE, the Foreign Trade Business Organization Council, which coordinated all private sector actions in relation to NAFTA negotiations (Ortiz Mena L.N. 2003b).

Once the institutional structure for the negotiations was set up, specific guidelines for negotiators were set out. In terms of defensive aims, at this stage it was deemed insufficient to simply rely on the assertion that the Constitution was not part of the negotiations. Thus, the five NOs were dictated to the negotiating team with instructions to stand absolutely firm regarding those issues throughout the negotiations. They would simply state and restate the position, and not engage in any arguments about it. The defensive aims were at the same time coupled with offensive aims (market access that recognized asymmetries, and the establishment of an effective dispute settlement mechanism).

These guidelines allowed the possibility of striking a deal with the U.S., given the very wide range of issues that were subject to negotiations, through cross-sectoral tradeoffs (IPR and FDI liberalization together with investor-state dispute settlement were of paramount importance for the U.S.). Mexico was also interested in getting agriculture on the table, even though it was extremely vulnerable in some areas, above all corn.[20]

[20] The majority of Mexico's corn producers are very inefficient. They are mostly extremely poor self-subsistence farmers.

Radical transformation of Mexican agriculture was required anyway, and it was used as part of bargaining; current levels of domestic subsidies for agricultural products were simply unsustainable, and something had to give. In addition, Mexico could make important gains in terms of market access. If Mexico requested exceptions, it would be inundated with requests from Mexican interest groups, and U.S. groups would soon start to follow suit. The basic tenet was that under NAFTA liberalization would be for real, and the negotiations would decide the "how" and "when," not the "if."[21]

Even the strict limits set out for oil still allowed some compromises; while the five NOs indeed posed clear and significant restrictions on what was clearly non-negotiable, there was room for a deal regarding foreign investment in secondary and final petrochemicals, electricity generation, international trade in oil and gas, and performance clauses. In addition, the sectors that were off limits from the negotiations were among the most politically volatile, so it was relatively easy to strike deals on the somewhat less politicized issues that were on the table.[22]

While the Mexicans were preparing for the negotiation in terms of institutional arrangements and strategy design, the U.S. continued to press Mexico on oil. In November 1990 a key meeting between Salinas and Bush took place in Monterrey, Mexico. Salinas asked Bush to include migration in the trade talks, but Buch replied that the U.S. Congress would not ratify the agreement if it encompassed migration. Salinas then acquiesced to excluding migration from the talks, but states that oil would

[21] Interview with Jaime Zabludovsky Kuper.
[22] Interview with Jaime Serra Puche.

accordingly also be excluded. The bottom lines had been clearly posited, and Bush noted that the ratification of the agreement without the inclusion of oil would not be easy. U.S. negotiators kept up the pressure on oil until the end of negotiations (Salinas 2000, 83-84).

Mexico no longer insisted on including migration, it used similar tactics to counter U.S. pressures. It did not attempt to offset defensive with offensive aims. The negotiating strategy was to offset its negative claiming with its partners' negative claiming; otherwise it may have been under great pressure in terms of foregoing offensive aims or acquiescing to U.S. offensive aims in order to maintain its oil off limits. The costs of exclusion may have been prohibitively high.[23]

Specifically, at the first preparatory meeting Mexico made its position on oil clear to its counterparts, and asked them if they also had some nonnegotiable issues. For the U.S. it was maritime transportation, and for Canada it was cultural industries.[24] Given that each party had items that were off limits from the negotiations, Mexico argued that there was equality in the position each had taken.[25]

Mexico also understood that Canada would threaten to demand a modification of CUSFTA provisions on energy supply commitments should it not accept a similar commitment, which in turn would generate incentives for the U.S. to press Mexico hard

[23] Interview with Jaime Serra Puche.
[24] Each country held fast to its non-negotiable issue until the end. The U.S. did not receive undue pressure from Mexico and Canada to modify the Jones Act (which is a classically protectionist measure in favor of U.S. shipping interests), while Canada and the U.S. pressed Mexico on oil, and the U.S. pressed Canada on cultural industries. As a U.S. official quipped "In the end it was all about fucking culture. This with a country [Canada] that has no culture!" (cited in Cameron and Tomlin 2000, 174).
[25] Interview with Jaime Serra Puche.

on the issue. Accordingly, an additional argument used was that each country was reserving a strategic sector: for Canada, in addition to cultural industries, it was its vast potable water reserves. If Canada had exempted water from the CUSFTA, Mexico was entitled to exempt oil from NAFTA, so the equivalence was oil vs. water, and not oil vs. oil (Salinas 2000, 90).

Once formal negotiations got under way, Mexico started with a negative claiming strategy: it refused to discuss the energy issue, and was opposed to the creation of an energy working group as part of NAFTA negotiations (Cameron and Tomlin 2000, 83). Later on it acquiesced to U.S. Chief Negotiator Carla Hills's demands for the creation of an energy working group, but Mexico insisted it be called an energy and petrochemicals working group, given there was space for negotiation on petrochemicals, but none on investment and oil supply guarantees.[26]

This set the basis for the tactics used by Mexico whenever oil resurfaced in the discussions: it held fast to the five NOs tirelessly repeating them and entertaining no arguments about them; it offered to discuss energy related issues that were not contemplated in the NOs, and it also stated that a violation of the five NOs would not only shoot down the whole agreement but that if the U.S. pushed too far and too hard the whole issue would blow up in Mexican domestic politics with grave consequences for both parties.[27]

[26] Interview with Jaime Zabludovsky Kuper.
[27] Interview with Jaime Serra Puche. The section on domestic politics elaborates on the way in which Mexico's threat of domestic political instability was made credible.

Mexico's strategy, however, was not sufficient on its own accord to successfully defend against claiming. It had to be coupled with measures to guard against informational biases, actions in both the U.S. and Mexican domestic politics scene and the favorable evolution of events that were beyond its control to achieve the results that we know.

- Beliefs

The very long NAFTA negotiation process turned out to be a blessing in disguise. The Salinas administration's experience in dealing with the Bush team started with its debt negotiations of 1988-1989. During those negotiations, they learned that the U.S. delegation was not monolithic, that some officials could be played off against others, and that when negotiations reached delicate points it was both possible and useful to have Salinas speak directly to Bush, who would then exert pressure on his own team. The Mexican team was no longer under the impression that its U.S. counterpart was invulnerable (Salinas 2000, 9-37).

Fast track negotiations also helped the Mexican team learn about U.S. preferences. In order for president Bush to renew fast track authority, a major lobbying effort, by both Mexico and the U.S., had taken place. In December 1990 Mexico opened a branch of its NAFTA negotiation office in Washington. Mexican officials of the Washington office made a concerted effort to establish close links with both U.S. legislators and U.S. interest groups to aid in fast track approval. The contacts and knowledge derived from the fast track negotiations proved invaluable for the subsequent negotiations. The “intelligence” work conducted by the Washington office was very sophisticated and useful for Mexican negotiators. For instance, they were able to make assessment with a great degree of certainty on how different configurations of rules of origin for a given sector would affect congressional votes at the time of ratification (Von Bertrab 1996, 109, 118).

In addition to establishing the Washington office, Mexico hired a team of lobbyists and lawyers. Among the firms hired were Burson-Marsteller, Charles Walker and Associates, and Manchester Trade. Robert Herzstein, who had been a top U.S. trade official during the Carter administration and was one the leading legal experts on unfair trade practices,[28] ably led a team of lawyer from Shearman & Sterling that closely advised Mexican negotiators throughout the process. Mexico also hired several former USTR officials. In all, it spent USD 35 million on lobbyists and legal advice throughout the three-year NAFTA process (Salinas 2000, 93-94).

Another source of information, which could always be checked against the Washington office’s assessments and with Mexico’s lawyers and lobbyists, was the fact that the U.S. negotiating team was very decentralized, and leaks were common (CT 2000, 78-90, Von Bertrab 1996, 92-93).

COECE also contributed to avoiding biased information and thus inadequate strategies. Mexican business leaders were in close contact with their U.S. partners –and competitors-

[28] In the 1970s he had helped Mexico successfully defend itself against U.S. AD actions on Mexican tomatoes, see Odell 2000, 102-104.

and continually fed information to the Mexican team on the political economy of the trade agreement. At the same time, given the extremely close links between COECE and the NAFTA negotiating team, the latter had a thorough knowledge of business concerns in Mexico, and used the information effectively in the negotiations.

Finally, U.S. domestic politics dovetailed nicely with the measures implemented by Mexico in guarding against incorrect information on counterpart preferences and strategies.

- Domestic politics

Domestic politics played a role in allowing Mexico to defend against claiming in at least two ways: it helped guard against biases, and also allowed Mexico to adjust its negotiation tactics with a view to achieving its offensive and defensive aims.

The U.S. political system is very complex given its decentralized nature, but it is also very transparent when it comes to interest group politics. This feature allowed Mexico's NAFTA office, together with its myriad advisors, to do a thorough job of detecting legislator positions on each issue throughout the negotiations, and to make calculations on the required winning coalition (218 votes in the House and 51 in the Senate[29]) for NAFTA ratification.[30]

[29] Some opponents of NAFTA argued that a qualified majority of 67 votes in the Senate were required to ratify NAFTA (61 Senators voted in favor of NAFTA).
[30] Interview with Jaime Zabludovsky Kuper. Following congressional positions proved difficult, for shortly after the end of the negotiations the House was renewed and the negotiation of labor and environmental

The decentralized nature of the system also allowed the Mexican team to use the counterpart it thought best at any given point in time. Salinas met with Bush several times during the negotiations, reiterating Mexico's position on oil. The "Texan" group (James Baker, Robert Mosbacher, and Lloyd Bentsen) was also approached several times during negotiations; they had the "big picture" of NAFTA negotiations and did not let single specific issues get in the way of the deal, whereas Hills was focusing exclusively on trade issue and in fact was not keen on NAFTA, at least at the outset. Specifically, Serra found it very useful to have two counterparts: he would deal with Carla Hills most of the time, but he also dealt directly with Commerce Secretary Mosbacher as the need arose. The U.S. did not have that advantage, in that there was no division between politicians and negotiators, and Serra was the sole leader of negotiations.[31]

The knowledge of congressional positions also made it very difficult for Hills to bluff in terms of how much room for maneuver she had from interest group pressures; the Mexican team had virtually the same information as did USTR. Her threats were for the most part not credible, and in any case Mexico could counter them via direct contacts with the relevant legislators and interest groups.[32]

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side agreements took place, forcing Mexico to continue with its lobbying and intelligence efforts. See Von Bertrab 1996, 180-254.

[31] Interview with Jaime Serra Puche.

[32] Interview with Jaime Serra Puche.

Mexico had an apparent handicap in that Salinas (or the top negotiators) could not credibly state that Mexico's Congress would not approve certain concessions, for the president effectively controlled Congress. However, this was overcome in several ways.

First, the opacity of the Mexican political system meant that Mexico possessed an informational advantage over the U.S. in terms of the potential domestic political consequences of certain concessions (such as investment in oil, or the failure of NAFTA ratification), whereas Mexico was at no such disadvantage regarding U.S. politics.

Second, Salinas made public pronouncements in Mexico regarding the fact that the Constitution would not be modified, and repeatedly stated the five NOs. It would have been extremely difficult to backtrack on such clear public statements.

Third, small incidents were magnified to bolster the credibility of Mexico's stance on oil. When DE,[33] a member of the U.S. negotiating team made a public remark stating that oil was in the negotiations, Serra forcefully complained to Hills, and Everson was pulled out of the team. Likewise, when a Mexican Trade Ministry official casually remarked that energy would somehow have to be addressed in the negotiations, he was summarily sacked. On one occasion, Serra asked Zabludovsky to head the working group on energy; this was extremely rare as Chief and Deputy Chief negotiators did not head working group sessions. Incidents such as these were used by Serra to send a signal both to his

[33] [VERIFY NAME]

negotiating partners and to the domestic political establishment in Mexico in order to bolster the credibility of Mexico's position on oil.[34]

Fourth, vociferous opposition to NAFTA negotiations, and specifically the inclusion of oil, was favorable for Mexico's negotiators. Three of NAFTA's most outspoken critics (former presidential candidate Cuauhtemoc Cardenas- the son of General Lazaro Cardenas, who had nationalized the oil industry in 1938-, leftist intellectuals Jorge Castañeda and Adolfo Aguilar Zinser, and Jose Angel Conchello, Senator from the right of center National Action Party) made their views amply known. Aguilar and Castañeda even testified before the U.S. Congress. Critics such as these helped convey to the U.S. the difficulty of liberalizing investment in the oil sector and undertaking supply commitments, given the strong opposition to such measure in both leftist and rightist circles in Mexico (Salinas 2000, 84, 88, 122-126).

Finally, Mexico's stance regarding the five NOs, and the general nature of the offensive aims, meant that they would be the parameter in terms of which the whole agreement would be judged domestically. It is worth noting that in the press conference offered by Serra on August 12, 1992 just after the end of negotiations, the first thing he mentioned after the compulsory acknowledgement to all those involved in the negotiations was that the Constitution was respected, and the five NOs had prevailed in the negotiations; only

[34] Interview with Jaime Zabludovsky Kuper.

then did he turn to the offensive aims and stated how asymmetries had been recognized in terms of the pace of market liberalization (Serra 1994, 635-637).[35]

The five NOs also allowed Mexico to sidetrack any political opposition in Mexico regarding NAFTA ratification, so while it toiled hard to maintain its stance throughout the negotiations, in the end it greatly facilitated the politics of ratification in Mexico. The Mexican negotiating team went so far as to demand that Article 601 of Chapter VI (the Energy chapter), state that the Mexican constitution would be respected. It seemed like a statement of the obvious, given that NAFTA would have to comply with each country's constitution, but it was inserted anyway. It is the only place in NAFTA where there is an explicit mention of the Mexican Constitution.[36] Mexico's exemption from energy supply commitments was also clearly spelled out in the same chapter.[37]

- Market conditions

Given that NAFTA was a multi-issue negotiation, not only the oil market was relevant in worsening or improving each country's batna. Mexico was additionally concerned about the evolution of certain indicators of market expectations, such as the exchange rate and the Mexican stock market index. In terms of U.S. market developments that affected negotiations, Mexico was concerned about a worsening U.S. recession, which was a difficult environment under which to contemplate trade liberalization, and political

[35] In terms of offensive aims and the recognition of asymmetries, Mexico made great strides when it convinced the U.S. to bind Mexico's GSP tariff at zero upon entry into force of NAFTA. At the time, Mexico was the most important user of U.S. GSP concessions. Interview with Jaime Serra Puche.
[36] Interview with Jaime Serra Puche, interview with Jaime Zabludovsky Kuper..
[37] Interview with Jaime Serra Puche.

calendars, if they can be considered a market insofar as they entailed a context over which negotiators had no control. U.S. presidential (and congressional) elections were slated for November 1992 and Mexico did not want to deal with a different political setting for NAFTA ratification than for negotiations, or possibly even for negotiations to be carried out with two different administrations.

Mexico's batna worsened as NAFTA negotiations progressed. Whereas no significant group in Mexico had requested that Mexico negotiate an FTA with the U.S., once negotiations got under way a sort of self fulfilling prophecy started to take place, whereby significant business groups asserted that the failure to achieve a successful negotiation would generate great market uncertainty and possible spell serious economic trouble for Mexico.[38]

The Mexican team did what it could to protect itself form market developments. In late 1990 it spent a considerable amount of resources in buying oil futures, with the aim of being able to count on a minimum amount of income for public coffers should oil prices fall.

Throughout NAFTA negotiations pressures on the peso and capital flight were on the increase, so that by the end of negotiations the exchange rate was close to the upper band.[39] Oil prices did decrease, but due to the futures trading their impact on public finances were minimal.

[38] Interview with Jaime Serra Puche.
[39] The exchange rate regime followed under Salinas was that of a band.

While negative market developments could be used by U.S. negotiators to pressure Mexico, the fact that Mexico was already the U.S.'s third trade partner meant that if market dislocations were extreme, the U.S. would also be affected by negative externalities.[40] To offset market pressures to which Mexico was subject, but which might also affect the U.S. and Canada, early on in the negotiation process the three Ministers responsible for negotiations struck an agreement whereby none of them would publicly commit to a specific date for the end of negotiations. The mantra was that substance would drive pace, and not the other way around.[41]

Attempts to keep the political calendar out of the negotiation process nonetheless proved futile. During the Dallas "jamboree" Mexico had precipitated into granting concessions too early, by wanting to wrap up negotiations quickly and avoiding them becoming entangled with U.S. presidential elections, but the U.S. was still playing with time and Mexico realized it would not be possible to secure an early agreement (Cameron and Tomlin 2000, 101-105).

Paradoxically, in the end U.S. delay tactics and the U.S. recession ended up helping Mexico. While the recession made for a hostile environment for trade negotiations, it also gradually eroded Bush's popularity, which had been extremely high after the U.S. victory in the Gulf War in early 1991. After the blunder committed by Mexico in Dallas, it learned to be more patient and played for time when it realized Bush's reelection was at

[40] Interview with Jaime Zabludovsky Kuper.
[41] Interview with Jaime Serra Puche.

risk. Indeed, “U.S. haste in August [1992] was one factor that contributed to Mexico’s ability to avoid concessions in energy, even at the very end of negotiations” (Cameron and Tomlin 2000, 234).

The most delicate moments in terms of economic market developments for Mexico actually came after the end of negotiations, during the ratification phase. Tradeoffs and negotiations continued even after the NAFTA text had been signed by the chief negotiators in San Antonio in October1992, with Salinas, Bush, and Mulroney as witnesses.

In September 1993 Finance Minister Pedro Aspe noted, at an economic cabinet meeting, that should NAFTA fail to be ratified, Mexico’s economic policy would be unsustainable. In November, Miguel Mancera, the Central Bank governor, expected serious exchange rate disruptions if NAFTA was not ratified. The cabinet expected that help from the U.S. Treasury would be required in case of defeat, and planned on asking Treasury Secretary Bentsen for help when the moment came.[42] The government asked its pollster for a survey on public perceptions should NAFTA fail, and found out that there would be no undue irritation, if there were no exchange rate impact. It then proceeded to design investment agreements with Germany, the UK, Spain and Japan, prepared changes to the Foreign Investment Law, intensified its efforts to join the OECD and prepared the details of the financial rescue package that would be presented to Bentsen. A worst case scenario was planned for, just in case ratification fell through (Salinas 2000, 176-186). In the end

[42] By this time Bentsen had left the Senate to become Treasury Secretary.

NAFTA was ratified, but ratification had been far from a foregone conclusion. A great deal of arm twisting and pork had been required to secure the deal.[43]

- The institutional setting

The institutional setting helped Mexico's negative claiming because in a sense NAFTA was not only a trade negotiation, but also an exercise in institutional creation. It could serve as a template for future trade agreements with developing countries that the U.S. could subscribe, and also as a model for the inclusion of certain issues, such as IPR, in the Uruguay Round.

There was no precedent in terms of deep integration between two such different countries in terms of their wealth. While CUSFTA partly served as a template, it had been an agreement that integrated two developed countries; NAFTA was charting new territory and as such it gave scope for invention. Furthermore, if the U.S. wanted to use it as a template for future "North-South" agreements it had incentives to push as far as it could, but it could not push too far lest the whole deal fall apart. That was definitely not the precedent it wanted to set. Current FTAA negotiations now offer little room for improvisation; they are a straitjacket whereby the scope for broad changes to the template and content is quite limited.[44]

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[43] For accounts of the politics of NAFTA ratification, see Salinas (2000) Chapter 5, Von Bertrab 1996 Chapter 4, Cameron and Tomlin (2000) Chapter 9, and Mayer (1998) Section III.
[44] Interview with Jaime Zabludovsky Kuper.

For Mexico it was fortuitous that the Uruguay Round (1986-1994) coincided with NAFTA negotiations. The U.S. wanted to use NAFTA as a precedent for the way a number of issues should be treated in the Uruguay Round, and thus insisted on some key "principles" issues such as IPR and investment, and did not get hung up on specific sectoral concerns.[45]

The Uruguay Round also made it easier for Mexico to make some difficult concessions, such as those in agriculture, for it believed it would have to liberalize anyway, and preferred to do so under NAFTA that in the Uruguay Round (Salinas 2000, 118).

III. Implications

The preceding section shows how it was necessary for Mexico to display a wide array of actions in order to successfully defend against claiming by the U.S. during NAFTA energy negotiations. Were they used according to the expectations set out in NWE? Are there any lessons to be drawn from Mexico's experience? In this final section, these issues are addressed.

Strategies

[45] Interview with Jaime Serra Puche. Maxfield and Shapiro (1998) correctly note that the U.S. had a penchant for "principles" issues, but they surmise this was due to the limited influence of interest groups in the trade policymaking process. A more plausible explanation would link the U.S. penchant to the NAFTA negotiations being embedded in the Uruguay Round.

While Mexico had to tailor its defensive tactics according to the specific situation it faced (Odell 2000, 210), there are some general lessons to be learned. The expectation that choosing a mixed strategy, rather than strict claiming, may gain more or lose less under some circumstances, even when bargainers believe their main strategies are in conflict, was borne out, as did the fact that sometimes sticking to strict (defensive) claiming does not produce adequate results (Odell 2000, 185-186). Conversely, it was also true that strict adherence to defensive claiming will fail to discover gains to one's side that are only possible with value creation (Odell 2000, 210).

While Mexico stuck to negative claiming throughout the negotiations in terms of its five NOs, it did offer some flexibility in other energy areas (such as secondary petrochemicals, trade in gas and electricity, and procurement) and in other NAFTA issues like IPR and investor-state disputes. If its strategy had consisted of negative claiming in a vast number of areas, the room for maneuver would have been scant and the possibility of striking a deal low. By allowing bargains to be struck in other areas (creating a positive zone of agreement), it was easier to successfully defend against claims.

It is worth noting that the mixed strategy was facilitated by the fact that energy negotiations were embedded within the larger NAFTA negotiation, so cross-sectoral deals could be struck, but it was also possible to develop a mixed strategy within the energy area by actions such as naming the working group "energy and petrochemicals" and bringing in petrochemicals into the discussion, as well as including PEMEX and CFE in procurement negotiations. In addition, the mixed strategy was also created by dividing the negotiation process into stages, so principles were agreed upon first (the creation of a working group), and the details were left for later. This helped to break the impasse on energy (Odell 2000, 212).

Negotiating over the trade-related issues encompassed by NAFTA helped Mexico defend against claiming, but there was also a lesson in avoiding other types of issue mix, as was the case of debt and trade negotiations. Mexico might have paid a high price for the exclusion of the oil sector by obtaining a worse deal on its debt renegotiations than it actually did. By keeping these issues separate, it was able to secure a good deal on both of them. The lesson here is not that mixing or separating issues is good or bad per se, but that the decision must be made on a case by case basis, and that even when issues are separated it may still be possible to find a way to generate a mixed strategy.

Another lesson is that negative claiming as a defense against offensive claiming was bolstered by the fact that it was made at the beginning of negotiations. That way, it was offset against other negative claims by the counterparts, instead of having them offset Mexico's negative claims against its offensive claims. If Mexico had enticed the U.S. into negotiations by hinting that a deal on energy was possible, and balked at the end, this may have generated a great deal of confusion and the construction of a wining coalition of votes in the U.S. Congress would have been severely hampered.

The sequential mixed strategy, as opposed to a concurrent or simultaneous mixed strategy also worked well. The sequential nature of the offer helped Mexico play for time, so the

U.S. had to decide during the last stages of the negotiation if it wanted to accept the tokens offered by Mexico in energy. If the offer had been simultaneous, the U.S. would in any case have taken the tokens for granted and kept on asking for more. Just like not having offset Mexico's negative claims against the counterparts' negative claims could have translated into much higher costs of exclusion for Mexico, a simultaneous offer could also have translated into higher costs of exclusion.

The framing of the issue also had an important impact on the success of the defense against claiming. Mexico started to play off its exclusion against U.S. exclusions even before the formal negotiations started, as when Salinas proposed the inclusion of migration in the talks, and when Bush refused, this gave Mexico a reason to exclude oil without any concessions: it had already accepted the exclusion of migration. This tactic was followed in the negotiations when Mexico argued that the exclusion of oil was equivalent to the exclusion of maritime transportation by the U.S. (even though it had no overriding interest in amending the Jones Act), and when it framed Mexico's oil exclusion as equivalent to Canada's water exclusion, so as to make equivalent Mexican energy supply commitments with Canadian water (and not energy) supply commitments. The specifics of the strategy relied on imagination in terms of how to frame an issue differently, to be able to offset exclusion with another exclusion.

Beliefs

Mexico's actions to avoid biases were extremely successful, and bear out the expectation that "If negotiators are subject […] to cognitive judgment biases, then gains and losses from a strategy will vary directly with the extent to which the negotiator uses tactics designed to compensate his own biases" (Odell 2000, 184).

Mexico's experience with previous negotiations, even though they were in the finance area (foreign debt) helped them become familiar with the ways of U.S. negotiators. The negotiations over fast track renewal also helped Mexico gather both experience and above all a great deal of information on key players of the trade game, and their policy preferences.

However, the most important action taken to avoid biases was with the hiring of lobbyists and lawyers, and having them interact with members of the Washington NAFTA negotiation office. They helped Mexico understand the U.S. bottom line (resistance point) on a number of issues, and thus to design a negotiation strategy that ensured there was a wining coalition as a result of Mexican offers. It also meant that Carla Hills could not credibly bluff in order to extract concession from Mexico. Under a biased information scenario, it is possible to imagine an outcome where the U.S. credibly stated that an agreement without liberalization of oil investment rules and commitments on energy supplies would not be approved by Congress, or that the cost of exclusion were higher than they were in reality.

The foreign advisors helped Mexico reveal correct information about U.S. preferences, and also helped it avoid costly mistakes in apparently small details when negotiators' agreements were translated into legalese. The negotiations were undertaken in English, and the first legal text was in English, so Mexicans had to be extremely careful that what they thought they had agreed upon was effectively what the legal text stated. Likewise, after the end of negotiations there still remained a phase where Congress had to issue implementing legislation for NAFTA, and it was also possible to lose some gains that were made at the negotiation table in the process on turning NAFTA into U.S. domestic law. The lesson to be learned here is that while Mexico's negotiators were extremely capable economists, an area of vulnerability lay in the different nature of the U.S. legal system and its great complexity.[46] If a country is to defend against claiming by the U.S. in economic negotiations, it seems that the most valuable foreign advisers are not economists but lawyers.

The success of Mexico's actions during NAFTA negotiations can be compared to the failure of the gas pipeline negotiations between Mexico and the U.S. in the 1970s, when the Director General of PEMEX had made a public commitment in terms of minimal acceptable outcomes for Mexico (much as with the five NOs), but given his incorrect information the whole project fell through and proved to be very costly for Mexico.[47]

A question that deserves further research is the extent to which "experience" can be bought. While it is surely best to have experienced negotiators at the table, the Mexican

[46] Mexico uses a Roman law system, while the U.S. has a common law system.
[47] See Odell 2000, 94-107.

NAFTA negotiators had precious little –if any- experience in trade negotiations, yet they were able to secure all of their main offensive and defensive aims. I would venture that perhaps this may not have even possible without the USD 35 million spent on advisors, but the obverse side is that experience can in some sense be bought.

Domestic politics

Defending against claims by the U.S. has some advantages. The pluralistic and transparent nature of its political system means that, while it is a very difficult (might one say expensive?) endeavor to follow the positions of key legislators, it is nevertheless possible to do so. Apart from the informational component that can be derived from the particulars of the U.S. political system, it is also possible to act within it. Mexico effectively lobbied both legislators and interests groups during NAFTA negotiations and the subsequent ratification phase. In comparison, defense against claiming may be harder against the European Union, given it now encompasses 25 countries, and some issues are dealt with by the European Commission while others are reserved to the nation states. Mexico's experience in negotiating with both the EU and the U.S. in free trade negotiations indicates that this may in fact be the case.[48]

Apart from lobbying with legislators and business groups, Mexico made use of contacts with top members of the Bush cabinet and, as required, with Bush himself, so negotiations were not circumscribed to what was taking place at the negotiating table.

[48] Interview with Jaime Zabludovsky Kuper. Zabludovsky was Mexico's Chief Negotiator for the trade component aspects of the Mexico-European Union Partnership Agreement. See also Schiavon and Ortiz Mena L.N. 2001.

Multiple points of contact with U.S. officials were used to convey credibility to Mexico's position of defense against U.S. claims on oil. Salinas reiterated Mexico's position personally to Bush. As such, it was difficult for the U.S. to view the position as mere tactical positioning at the negotiating table.

Mexico also used domestic politics as leverage against U.S. pressures, closely following the expectation that "As constituents in a target country raise the political cost of compliance for their government, gains from offensive claiming strategy will diminish" (Odell 2000, 184). NAFTA's opponents actually helped negotiators by stating their steadfast opposition against the inclusion of energy in the negotiations. This effect was amplified by the fact that opposition came from both the left and the right of the political spectrum and that it was conveyed directly to the U.S. audience, including hearings in Congress. Thus, an apparent handicap that Mexico had in the inability of Salinas to credibly threaten that his legislature would not approve of certain energy concessions was countervailed (inadvertently) by NAFTA's opponents.

In addition, Salinas has repeatedly stated in public that the Constitution would not be amended as a result of NAFTA negotiations, and that the agreement would have to abide by the five NOs. Going public helped Mexico bolster the credibility of its defense against claims, and to set political limits to what was acceptable. The specificity of Mexico's negative claims also helped its successful defense; if the negative claim had resided solely on the fact that the Constitution was not up for negotiation, there could have been several ways to circumvent it. The more specific the defensive claim, the easier it is to use public pressure to support it.

In addition, the non-democratic nature of the Mexican political system at the time also played in Mexico's favor, for its negotiators had a better notion of what Mexico's resistance points were than did the U.S.. Mexico could thus somewhat magnify the supposed potential negative consequences of the U.S. going too far in its offensive claims, so that uncertainty on Mexican domestic politics tended to favor Mexico.

The "theatrical" use of small incidents, such as the public sacking of a Mexican Trade Ministry official for even hinting that oil would be in the negotiations also bolstered the credibility of threats regarding negative claiming. Thus, a non-democratic state may, in some circumstances, still be able to make credible threats and even use the non-transparent nature of its political system in its favor.

An issue that merits further research is the virtual absence of U.S. oil companies from NAFTA negotiations. According to Odell, "The more constituents inside a threatening country express opposition to implementing threat, the more they will diminish overseas gains from offensive distributive strategies" (Odell 2000, 184). Had these companies pressed hard for liberalization and lobbied before Congress, Mexico would have had a more difficult U.S. domestic political environment to contend with and would have had a harder time in defending against U.S. claims. Cameron and Tomlin surmise that the oil companies had a better understanding of Mexico's resistance point, and opted to make gains in ways other than direct confrontation (Cameron and Tomlin 2000, 89-90). Serra was surprised in that he did not receive any pressures form U.S. oil interests during the negotiations.[49]

Market conditions

In multi-issue negotiations such as NAFTA, several market forces may affect negotiations. In terms of the energy negotiations, the U.S. was concerned about ensuring secure oil supplies from Mexico, as demonstrated by Mosbacher's pronouncements shortly before the start of the Gulf War. This meant that the more the U.S. decided to stop relying on oil supplies from the Middle East, the greater the value of securing an oil supply agreement with Mexico. Ceteris paribus, this should have translated into bargaining leverage for Mexico. However, given that Mexico under no circumstances wanted to entertain granting oil supply guarantees to the U.S., greater political instability in the Middle East worked against Mexico for it enticed the U.S. to make strong offensive claims in an issue that Mexico was not willing to negotiate. In the end, the Gulf War did conclude successfully from a U.S. perspective, and oil prices remained at acceptable levels for the U.S.. It is worth pondering what would have happened in the negotiations had oil prices continued to rise as a result of continued instability in the Middle East. At an extreme, it is possible to envisage that an adamant demand from the U.S. on energy supply commitments might have derailed the whole agreement.

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[49] Interview with Jaime Serra Puche.

The oil market posed an additional problem for Mexico, given the reliance of public finances on oil exports.[50] Should oil prices come down (as they in fact did), the government's fiscal stance would be in a delicate position, and U.S. negotiators could press hard at the negotiating table knowing the Mexicans needed an agreement to calm down markets. A lesson form the Mexican case is that it bought oil futures and thus had control over the worst possible scenario regarding oil prices. In other words, it was able to limit the potential damage certain market developments could do, and acted accordingly.

In other issues, such as pressures against the exchange rate and capital flight, there was less the government could do expect to try to secure a good trade agreement and hope it was done before markets started discounting the possibility of a deal being reached.

Mexico was prepared for the failure of negotiations, and did not contemplate caving in on oil to avoid such scenario. The measures taken by Mexico to prepare for the failure to have NAFTA ratified (such as preparing investment agreements with several European countries and the design of a financial rescue package which would be requested to the U.S.) are a necessary counterpart to an effective defense against claiming. Should there be no contingency plans, success in defense against claiming could turn into a pyrrhic victory. By buying oil futures and designing contingency plans, Mexico improved its batna somewhat.[51] Obviously, not all of these measures should be made public, lest they

[50] Approximately 1/3 of the federal government's income derives from PEMEX earnings.
[51] Odell presents an analogous lesson in the comparison of the strategies followed by Kennecott and Anaconda in the face of possible conflicts with the Chilean government. Kennecott had alternative plans for a "worst case" scenario, while Anaconda did not. See Odell 2000, 209-210.

generate a moral hazard, but countries defending against claims would do well to have contingency plans and not improvise should negotiations fail.

The evolution of the U.S. economy also played into the negotiations, but paradoxically the worse the situation of the U.S. economy, the greater the leverage it gave to Mexican negotiators. It is common knowledge that protectionist pressures tend to resurface during a recession, so it is not the best economic environment under which to conduct trade liberalization negotiations.

During NAFTA negotiations, the negative evolution of the U.S. economy greatly affected Bush's standing in the polls and his probability of being reelected. As the election approached, Bush needed NAFTA to show an important "presidential" achievement, which meant that the deteriorating economic situation worsened the U.S.'s batna more than it did Mexico's and helped close the deal without the inclusion of oil. It is ironic that Mexico has been the demandeur, and at the end of negotiations the U.S. apparently wanted NAFTA at least as badly as Mexico did. This concurs with Odell's expectation in that "The worse the alternative the relevant market [...] presents to the government negotiator, the lower his resistance point in the talks, hence softer claiming tactics and smaller gains, and vice versa" (Odell 2000, 183).

Had the U.S. economy been in good shape, it is probable that Bush could have expected a relatively easy reelection, and would not have been in a rush to conclude the agreement.

Under a better U.S. batna, Mexico would have had to struggle harder to keep oil out of the negotiations.

In short, the lessons regarding markets while defending against claims is to take action in those market segments where it is possible to limit their effect on worsening your own batna, and to have contingency plans should all else fail. Likewise, apparently negative market developments can turn out to be positive in the end, so it is important not to prejudge a situation; tactics should be adjusted accordingly.

Institutions

NAFTA negotiations were not only about tariff and non tariff reductions to trade and investment in North America. It was also an exercise in institutional creation, insofar as it was to be an example of the type of agreement that the U.S. wished to establish with developing countries. This created pressures for Mexico to cede as much as possible, for it would be the standard against which other agreements would be judges in key areas of U.S. interest, such as IPR and investment. However, since this was the first agreement it also gave some leverage to Mexico: a failed agreement was worse for the U.S. than an "imperfect" one. Subsequent negotiations with the U.S. will prove more difficult, for the precedent has now been set. The FTAA may be a case in point.

The fact that NAFTA negotiations were concurrent with the Uruguay Round also benefited Mexico. Just as the U.S. wished to press hard on certain issues in order to be able to use the as a model and precedent in the Uruguay Round, Mexico knew that the strategic interest that the U.S. had in NAFTA negotiations could be used to Mexico's advantage: it could concede in areas of supreme interest to the U.S., and in exchange it would be able to advance Mexico's offensive and defensive interests.[52] Overall, the evidence suggests that having NAFTA embedded within a multilateral trade negotiation round was positive for the country defending against claims.

Other issues

The issues examined in this section of course merit much further research in order to allow us to have a better understanding of the dynamics of defense against claims. There are additional issues that were not mentioned and likewise deserve further attention.

The role of individuals play a part in strategy design and implementation. Serra had a more economically liberal view on the energy issue than did PEMEX Director General Francisco Rojas. If Rojas had had his way, even the limited concessions on international trade in gas and electricity would not have been on the offer, making virtually all of Mexico's energy stance that of negative claiming, with unforeseen results on the negotiation.[53]

Odell asks whether the further away from the "Pareto frontier" the status quo is the greater the probability that a state will favor value creating instead of value claiming

[52] Interview with Jaime Serra Puche.
[53] See Salinas 2000, 113-114.

strategies (Odell 2000, 186). If anything, NAFTA energy negotiations represent a typical case of comparative advantage and the possibility of mutual gains, for Mexico had vast oil reserves but no capital with which to fully exploit them, while the U.S. had capital and technology, and the need to import oil from Mexico. Mexico's stance, however, was based on political considerations and economic rationale was thrust aside. Even though the status quo was far away from the Pareto frontier, both sides stuck to claiming in most energy-related issues.[54]

There is also the related question on whether negotiators weigh defensive aims more heavily than offensive ones.[55] In other word, did Mexico place greater emphasis on the exclusion of oil than in attaining its offensive aims during NAFTA negotiations? According to Serra, there was no special emphasis on defensive aims over offensive ones;[56] it just so happened that defensive aims were quite specific while offensive ones were general.

The role of the negotiating team design is also an issue that merits closer examination. Cameron and Tomlin (2000, 120-125) note the pros and cons of a centralized vs a decentralized negotiating team. In their view, centralized teams are more prone to biases; if so, a redoubled effort must be made to compensate for it. More basically, governments that are functioning in an open economy would be wise to pay special attention to the design and functioning of their trade policymaking institutions. One can make the best of

[54] Mayer deals with preference origins, and not only with the negotiation process once preferences are given. His admonition is to stay away from assumptions based on rational unitary actors if one wishes to understand international negotiations. See Mayer 1988 (152-155).
[55] This notion is related to prospect theory, as developed by Daniel Kahneman and Amos Tversky.
[56] Interview with Jaime Serra Puche.

the opportunities offered by the negotiation process only insofar as he has the adequate institutions and individuals. Otherwise, the negotiation process will only represent foregone opportunities.[57]

[57] See Schiavon and Ortiz Mena L.N. 2001.

NAFTA Negotiation Highlights

1988

November:	Bush proposes FTA to Salinas, Salinas rejects it

1990

February:	Serra proposes FTA to Hills
March:	Bush gives go ahead for FTA with Mexico
August:	Mosbacher publicly states that oil will be in the negotiations
September:	Bush requests fast track authority renewal
November:	Bush and Salinas meeting in Monterrey, Mexico, energy discussed

1991

January:	Beginning of Gulf war
February:	End of Gulf war Canada joins FTA negotiations
May:	Fast track authority renewed
June:	Official start of NAFTA negotiations, Toronto (first Ministerial negotiating session)
August:	Second Ministerial negotiating session, Seattle. Mexico states five NOs
October:	Third Ministerial negotiating session, Zacatecas

1992

February:	Fourth Ministerial negotiating session, Chantilly (VA) Dallas “jamboree” (Chief negotiators and working groups negotiating sessions). Working group on energy established, Mexico states Constitutions will not be modified
April:	Fifth Ministerial negotiating session, Montreal
July:	Sixth Ministerial negotiating session, Mexico City

August:	The Watergate Sessions (Seventh Ministerial negotiating session), successful end of NAFTA negotiations
October:	NAFTA negotiators initial the Agreement in San Antonio
November:	U.S. presidential election, Clinton defeats Bush

1993

January:	Clinton sworn is as the USs 42^{nd} President
February:	Start of NAFTA side agreements negotiations (labor and the environment)
August:	End of side agreements negotiations
November:	Negotiations on sugar and citrus (arm twisting and pork sessions) NAFTA ratified by U.S. House and Senate

1994

January:	NAFTA entry into force

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