UNCLE SAM AND US

Globalization, Neoconservatism, and the Canadian State

Can Canada survive?

In response to widespread fear about the impact of globalization on Canada, Stephen Clarkson has written an erudite but highly readable book about Canadian government in a new era.

Taking as his yardstick the relatively generous and active state constructed under John Diefenbaker, Lester Pearson, and Pierre Trudeau, he proceeds to identify the changes – for better or for worse – that occurred under Brian Mulroney and Jean Chrétien, who signed transformative treaties and adopted right-wing policies.

Uncle Sam and Us shows how the prime institutions of the international economic order established in the 1990s – the North American Free Trade Agreement and the World Trade Organization – have reconstituted national governance in Canada. Taken together, NAFTA and the WTO impose on the federal government, the provinces, and their cities a 'supraconstitution' that has constrained authority that was once the exclusive preserve of democratically elected legislatures.

Clarkson looks at how the Canadian state's principal economic functions have been altered. He tackles the issues that have the most powerful effect on Canadian society – those related to social, labour, environmental, and cultural policies. He also appraises the foreign-policy limits set by Canada's vulnerability to 'Uncle Sam,' which was dramatized on September 11, 2001, when Washington temporarily blockaded all cross-border trade.

This comprehensive study concludes that the Canadian state has been weakened more by ideologues than by global forces. So the hope for restoring the quality of their society remains in the hands of Canadian voters, should they elect politicians who reaffirm values of social justice, ecological sustainability, and civic democracy. The clock can't be turned back, but globalization can be humanized if citizens push their governments to rebalance the international rules that have unleashed transnational corporations while hobbling democracy.

STEPHEN CLARKSON is Professor of Political Economy at the University of Toronto. He is the author of *Canada and the Reagan Challenge* (1982), which won the John Porter prize, and co-author, with Christina McCall, of *Trudeau and Our Times, Vol. 1: The Magnificent Obsession* (1990), which won a Governor General's Award, and *Trudeau and Our Times, Vol. 2: The Heroic Delusion* (1994), which won the John Dafoe prize.

The Woodrow Wilson International Center for Scholars

Lee H. Hamilton, Director

About the Center
The Center is the living memorial of the United States of America to the nation's twenty-eighth president, Woodrow Wilson. Congress established the Woodrow Wilson Center in 1968 as an international institute for advanced study, "symbolizing and strengthening the fruitful relationship between the world of learning and the world of public affairs." The Center opened in 1970 under its own board of trustees.

In all its activities the Woodrow Wilson Center is a nonprofit, nonpartisan organization, supported financially by annual appropriations from the Congress, and by the contributions of foundations, corporations, and individuals. Conclusions or opinions expressed in Center publications and programs are those of the authors and speakers and do not necessarily reflect the views of the Center staff, fellows, trustees, advisory groups, or any individuals or organizations that provide financial support to the Center.

Uncle Sam and Us

Globalization, Neoconservatism, and the Canadian State

Stephen Clarkson

UNIVERSITY OF TORONTO PRESS
Toronto Buffalo London

and

WOODROW WILSON CENTER PRESS
Washington, D.C.

Woodrow Wilson
Center Press
Washington, D.C.

www.utppublishing.com

University of Toronto Press Incorporated
Toronto Buffalo London
Woodrow Wilson Center Press
Washington, DC
www.wilsoncenter.org
Printed in Canada

Reprinted 2003

ISBN 0-8020-3758-5 (cloth)
ISBN 0-8020-8539-3 (paper)

Printed on acid-free paper

National Library of Canada Cataloguing in Publication

Clarkson, Stephen, 1937–
Uncle Sam and us : globalization, neoconservatism, and the Canadian state / Stephen Clarkson.

Includes bibliographical references and index.
ISBN 0-8020-3758-5 (bound). ISBN 0-8020-8539-3 (pbk.)

1. Canada – Economic conditions – 1991– 2. Canada – Social conditions – 1991– 3. Canada – Politics and government – 1993– 4. Conservatism – Canada. 5. Canada – Foreign relations – United States. 6. United States – Foreign relations – Canada. 7. Globalization. 8. International economic integration. I. Title.

FC635 C59 2002 971.064'8 C2002-902596-6
F1034.2.C59 2002

University of Toronto Press acknowledges the financial assistance to its publishing program of the Canada Council for the Arts and the Ontario Arts Council.

University of Toronto Press acknowledges the financial support for its publishing activities of the Government of Canada through the Book Publishing Industry Development Program (BPIDP).

This book on the state of the Canadian state
is dedicated to
Clare Margaret McCall Monahan
and to
Talia Chloë Clarkson Lewis
in the hope that it will be there for their generation
as it has been for their grandparents'

This page inte

Contents

UNCLE SAM AND US

Globalization, Neoconservatism, and the Canadian State

This page inte

1 Not Whether, but Which Canada Will Survive

'Stephen, will Canada survive?' a physicist friend of mine asked out of the blue as we drove back to Toronto after a summer concert at the Sharon Temple, that Quaker oasis of colonial beauty where music and nature can still be experienced in serene harmony. Although the bluntness of his question took me by surprise, such apocalyptic fears have been widespread ever since neoconservatism and trade liberalization sparked anxiety in the 1980s about globalization's perverse impact on Canada's political, economic, and social systems.

A Simple Question ...

Canadians like my friend are not alone in harbouring concerns about their state system's sustainability. Everywhere in the world people are experiencing high levels of anxiety about the social cohesion, economic performance, and political viability of their state structures in the wake of the dual strengthening of local neoconservatism and global trade governance. Even in the United States, which emerged from the Cold War as the world's undisputed 'hyper-power,' anger is rife about the country's loss of sovereignty to transnational corporations (even though most of them are American) and to global institutions' behaviour (although the United States has been instrumental in defining their structures and hosts many of them).

Throughout newly industrializing Asia, the devastating combination in 1997 of an exchange rate crisis and government austerity measures imposed by the International Monetary Fund (IMF) shook these countries' capacity to promote their own interests. In Latin America, market contagion provoked a run on Brazil's currency, which in turn pushed neighbouring Argentina into a severe economic crisis that led to the government's calamitous default of 2002. In their far more stable context, the European Union's fifteen member states focused on a related debate about their governments' ability to sustain their domestic social policies, having entrusted to the European Central Bank much of their economic management.

Situated somewhere between these extremes of externally determined dysfunctionality and self-imposed truncation, Canadians at the beginning of the new millennium doubt that their political system can perform its expected functions in the wake of three radical changes associated with globalization: the landmark continental treaties the government of Canada implemented with the United States – the Canada-United States Free Trade Agreement (CUFTA) in 1989 and the North American Free Trade Agreement (NAFTA) in 1994 – and its subsequent entry the next year into the World Trade Organization (WTO) to which, by 2002, 143 other states belonged.

Several factors make it difficult for both citizens and experts to ascertain how much the new global governance constrains the Canadian state. A shift in the managerial paradigm of both elected politicians and their bureaucrats away from government activism makes it hard for scholars to determine whether a reduction in policy activity results from their fear of falling afoul of the new global rules or their belief that less government is better government. Such 'non-decision-making' is also notoriously resistant to empirical observation: outsiders can rarely tell to what extent NAFTA has inhibited state actions that might have been taken in its absence. Finally, Canadian governments may be renouncing such popular practices as supporting national enterprises not because of externally dictated constraints but because of a self-imposed determination to eliminate their budget deficits.

Canadians are aware that their federal and provincial governments and municipal administrations have made numerous efforts to rein in their activities. These include:

- *withdrawal* by Ottawa from social assistance, forestry management, manpower training, and other fields formally under provincial jurisdiction in which it had been active
- *downloading* of federal authority both to the provinces in fields of joint jurisdiction such as immigration and in overlapping areas such as environmental regulation and to Native band councils on land management

- *privatization* of federal and provincial crown corporations, which shrinks the public sector and diminishes governments' capacity to shape economic development
- *deregulating* economic sectors such as transportation and diminishing the rigour of such existing regulatory regimes as food inspection
- *cutting* government expenditures by reducing the coverage of programs such as unemployment insurance, education, and health care
- *downsizing* the federal, provincial, and municipal civil services, which then have trouble enforcing the regulations and administering the programs that remain nominally in force
- *offloading* the taxation burden from corporations to citizens in the form of consumption taxes and user fees

The starkest social effects of these political changes are obvious to the most casual observer who stumbles across a homeless person lying on a city sidewalk or has to pay a new airport tax when boarding a flight. Vital public institutions, such as the Canadian Broadcasting Corporation and the National Film Board, are now shadows of their former, robust selves. Telephone, electricity, and natural gas are no longer price-controlled services provided through a state-regulated monopoly. Crown corporations that helped constitute the state and its identity, such as Air Canada and Canadian National Railways, have been sold off and are run as private monopolies, nominally answerable to shareholders who are as likely as not American.

The country on which my friend, as a civic activist, environmentalist, and university professor, had projected his hopes and ideals indeed seemed finished. The Canada he loved was toast. So in asking whether the country would survive, he was implicitly begging a couple of other questions. Did these indicators of social and institutional degeneration result from *external* forces or from decisions made by *domestic* political actors? And were they reversible in the sense that the Canada of his dreams could re-emerge in reality?

Valid though these questions were, answers could not easily be found through reading the huge and contentious literature that has sprung up about the current state of the nation-state. To start with, there is confusion about the nature of the external forces to which states are now subjected. Since no one agrees even on the meaning of crucial terms, I would like to clarify how the three concepts of globalization, global governance, and globalism will be used in this book.

Globalization is, of course, the dominant buzzword of our times and bears a heavily determinist load. Voters are told that governments must cut budgets because the irresistible force of globalization requires fiscal austerity. But if we consider the basic claims – political, ideological, economic, social, environmental, cultural, and technological – made for the phenomenon, we can see that the novelty of globalization is quite relative.

- *Politically,* globalization is thought to be destabilizing existing centres of authority and security, with new power centres emerging at every level, from the local to the international.[1] This is not a new phenomenon. Since long before the term was coined, imperial powers have destabilized their colonies' political systems. But much of what is today called globalization is the product of decisions made by nation states, particularly the most powerful.[2] In the wake of the catastrophe of September 11, 2001, the United States has proven that the state system, if it wants to, can regain control by clamping down on terrorist organizations' use of global capital markets for money laundering.
- *Economically,* markets trade round the clock. Transnational corporations (TNCs) locate components of their production process wherever they can minimize their costs. Distribution systems are now organized on a global basis in order to recuperate the huge investments made to develop new high-tech products. It is nevertheless true that some TNCs have operated globally for decades, some for centuries.
- In *social relations,* globalization is restructuring the way in which people live and how they relate to each other. But societal transformation across vast distances has been proceeding since long before Europeans sailed to the New World in the fifteenth century.
- *Environmentally,* the fragile envelope that sustains plant and animal life on earth is under increasing strain, but threats to human survival from industrialization antedate the recent discovery of globalization and would continue even with lower levels of technological, cultural, and economic interconnectedness.
- In *cultural expression,* the production and diffusion of information and entertainment have become worldwide through the use of satellite transmission. Again, this reality is undeniable but needs to be put in the perspective of world religions, which were crossing the seven seas hundreds of years ago.

- *Technologically,* the computer and the internet have obviously accelerated information exchanges, but such fundamental breakthroughs as the telegraph and telephone had already created a universal society by the early twentieth century.

Any debate over globalization's novelty is bound to be sterile. Because it has become so, well, globally accepted, I want to use the word to stand for the current, post–Cold War phase of these political, economic, social, environmental, cultural, and technological trends.

Global governance. Long before the millennium, most European states had already experienced *transnational* governance through supranational continental institutions, which evolved fitfully in the years after 1945 into today's European Union. Canada had resisted formalized transnational governance until it implemented CUFTA in 1989. Continental governance including Mexico came a few years later with NAFTA, although this agreement's institutions were of doubtful effectiveness.

Globalization did bring one innovation in the 1990s whose importance no one should dismiss. The WTO is an institution of *global governance* that is both new and powerful. While it had deep roots in the half-century-old General Agreement on Tariffs and Trade (GATT), the World Trade Organization constituted a major development in *global governance* as an institution providing a mode of regulation for the current phase of globalized capital accumulation. The Canadian state's almost-simultaneous entry into both continental and global liberalizing regimes in 1994 and 1995 allows me to posit global governance after globalization as a second exogenous – or external – variable in my inquiry

Globalism. I use globalism to label the ideological corollary of globalization and global governance. Inspired and theorized by neoclassical economists, this paradigm maintains that a state's ability to protect its markets *ought to be* constrained. As the world economy then becomes more integrated, corporations can achieve the greatest economies of scale by operating on a worldwide basis, producing their goods and services at the lowest prices for the greatest benefit of consumers.[3]

As with the discourse on globalization, sceptics about globalism can validly object that this is not the first time that a doctrine has been universalized. A century ago, conservative laissez-faire was orthodoxy in the industrial world's governing circles. Half a century later, a more progressive Keynesianism was the global ideology endorsed by elites throughout the capitalist world. For this reason, I term *neoconservative* globalism the policy paradigm that currently justifies and promotes globalization as necessary, beneficial, and desirable.

To identify neoconservative globalism as a universal ideology raises the danger of obscuring the role of *domestic* political actors. Neoconservative ideas are not imposed mechanically by the American Enterprise Institute, Harvard University's Department of Economics, or the *Wall Street Journal*, although U.S. think tanks and research faculties have articulated the attack on liberal Keynesianism, and corporate-controlled mass media have popularized these ideas to the general public. However, when Premiers Ralph Klein, Mike Harris, or Gordon Campbell took up this paradigm in Alberta, Ontario, and British Columbia, they were agents both of globalization and of domestic pressures. Depending on its political base, neoconservatism can be considered either an external or a domestic expression.

The adjective 'neoconservative' will also serve to distinguish the ideological system favouring globalization and its corresponding global governance from the ideas expressed by those individuals and groups who have awakened to realize that their jobs, their health, the quality of their environment, and certain other values they hold dear are affected, even threatened. Anti-globalization ideologies have mobilized citizens in waves to protest the policies, processes, and practices of globalization's institutional embodiments. In anti-globalist organizations, 'Seattle,' 'Washington,' 'Windsor,' 'Calgary,' 'Prague,' 'Quebec,' and 'Genoa' have become code names for voluble, visible, and globally televised demonstrations organized by various transnationally connected opposition networks against (respectively) the WTO, the World Bank, the Organization of American States, the World Petroleum Association, the IMF, the Free Trade Area of the Americas, and the Economic Summit. As with neoconservative globalism, populist globalism generates transnational solidarities while remaining rooted in domestic politics.

So far, this preliminary discussion has treated globalization, global governance, and neoconservative globalism as if they were independent variables and exogenous factors in the analysis. This is because this book's prime question is the extent to which these recent manifestations of ever-greater transnational integration have affected the

Canadian state. Readers can rightly object to this being too simple-minded an intellectual agenda. When we come to such questions as the nature of global governance or the role of Canadian direct investment abroad, we will see that Canada has not been entirely passive in the face of external forces. The following chapters analyse globalization as a double-edged phenomenon, something that happened to us as well as something that we have caused to happen.

Other problems citizens encounter in the globalization literature are inherent in social science itself, which cannot take for granted the *meaning* of the facts that bombard us. For instance, we may read that in 2000 Canada exported $360 billion worth of goods to the United States and imported $268 billion of U.S. goods. Presented as raw data, the mind-boggling magnitude of these figures escapes most of us. We may get a better feel for the importance of trade to the country's economic health when the exports are translated as 40 per cent of Canadian gross domestic product and the imports as 30 per cent. Only when we compare these proportions with those of other countries do we learn that the Canadian economy has become extraordinarily 'open.' When these Canada-U.S. trade numbers are presented as 85 per cent of Canada's total exports and 74 per cent of its imports for that year, we can see how overwhelmingly dependent Canada is on trade with one single economy. And when these figures are then compared to the levels that obtained just before CUFTA came into effect in 1988 – 74 per cent for exports and 66 per cent for imports – we see how far Canada's integration in the American economy has advanced under free trade.

Grasping the significance of a fact also involves making a judgment, and making a judgement invokes one's core values. Those who celebrate the *fact* of Canada's growing openness to foreign trade as a welcome increase in its international integration generally embrace a value system giving top priority to economic growth. They see Canada's continental integration as a passport to its global economic success. Those who bewail their country's growing economic dependence on the American market espouse values such as political autonomy, social equality, labour rights, and environmental sustainability. They tend to see Canadian integration in the American system as entrenching an unwelcome reliance on factors beyond national control.

Confusion over facts is linked to confusion over values. This appears in the globalization debate as an emotive element that is rife in many analysts' work. In June 2000, at a Harvard University conference on the crisis of the multilateral trade system, even world-famous economists demonized 'them' – protesters at the WTO's meeting in Seattle the previous autumn – condemning them as either ignorant of elementary economics or outright demagogues, if not fascists.

An equally Manichean view of a world caught in a titanic struggle between the forces of evil (transnational capital and neoconservatives) and the forces of good (environmentalists, labour activists, and other representatives from civil society) permeates the non-governmental organizations (NGOs) leading the attack on globalization. Their publications rarely refer to the works of mainstream economists, just as neoclassical economists consistently ignore the publications of their critics.

This dialogue of the deaf extends to government's role in the economy. Neoconservatives start from the position that any interference in the economy by politicians is a mistake. Who governs least governs best. NGOs representing environmentalists, labour unions, or human rights activists also tend to distrust the state, because they see it as captured by neoconservatives, but they believe that better government policies should be part of the solution. They can point to some of the great success stories of the last half-century as those of interventionist states, both in Europe and in Asia, that created competitive advantage for their firms. Bombardier, BC Hydro, and Nortel in its former glory would not have become triumphs of Canadian capitalism without active state support.

My analysis takes the Keynesian welfare state that was developed under the prime ministerships of John Diefenbaker, Lester Pearson, and Pierre Trudeau from 1957 to 1984 as the standard against which to assess the neoconservative state that has been reconstituted by Prime Ministers Brian Mulroney and Jean Chrétien. In doing so I want to foreswear both a nostalgia for what cannot be restored and a teleology that ascribes to the state certain roles that it *should* play.

If concerned men and women are understandably confused about the fate of their state, it is equally appropriate if they are sceptical about the policy solutions to which they are exposed, whether in thirty-second sound bites from TV commentators or thirty-page articles in learned journals. Citizens have been plied with a stream of these neoconservative panaceas. In the mid-1980s, free trade was the solution for Canada's productivity problem. The country took the plunge, but a decade later Canadians learned their economy's productivity was still in crisis. The new magic bullet became cutting corporate taxation levels in order to attract capital. Or reducing personal income taxes to stem the brain drain. Or adopting the American dollar to stabilize the currency.

No one can deny the heavy element of subjectivity that pervades this discussion. What may be a half-full glass for one analyst who sees an impressively efficient healthcare system may be half empty for another who emphasizes the cracks that are appearing in the structure as the expensive and inefficient U.S. model looms large. Because of the highly emotional and even arbitrary bases on which many arguments about globalization are developed, I hope this book will offer readers thorough, solid information and a clear, if necessarily complex, analysis of the central issues in Canada's survival dossier.

... Deserves a Complex Answer

There is one simple answer that I chose not to put forward in response to my friend's simple query. I could have replied that of course Canada will survive if only because the United States would not want to annex it. Adding nine provinces to the American union, not to mention Quebec and the territories, would upset the delicate balance of power the Democrats and Republicans have achieved in the U.S. Congress. Canadians lean heavily towards the Democrats even in Alberta, the country's most conservative and American province. Accommodating 24 million people – Quebecers presumably would opt for independence rather than annexation – accustomed to state-supplied medical care would present the American polity with an immediate crisis.

But my friend's question was not about whether the geographical *space* now known as 'Canada' would survive. Obviously, it would remain on the map, stretching over a vast terrain from the American border all the way to the North Pole. The issue was in what form and with what content the political, juridical, economic, societal, and cultural entity we call Canada would continue to exist. This question in turn breaks down into two problems – one external, the other internal. The conundrum about outside forces has been on everyone's lips: was globalization causing Canada to lose control of its destiny? Also widespread as a public concern was whether the neoconservative governing paradigm has eviscerated the social achievements that have been integral to Canadians' sense of their national identity.

I am by no means the first social scientist to address the Canadian survival question. Some scholars have explicitly raised the spectre of Canada's dismantling.[4] Others have poured scorn on this concern, insisting that Canada will persist even though its distinctiveness is far less notable than nationalists claim.[5] On the whole, the debate has pitted those on the left, who put a high value on Canada's unique identity and believe government helps sustain its difference, against antinationalists on the right, who dismiss most state policies as responses to special interests trying to feather their own nests.

I agree that Canada is not about to disappear. But I also argue that the changes wrought to the political legacy of the Diefenbaker-Pearson-Trudeau period by neoconservative politicians in the two decades of the Mulroney-Chrétien era have been significant, in some cases seriously endangering the country's social fabric, economic vitality, and environmental sustainability.

I address these problems in the following chapters by distinguishing the *structural* changes to the Canadian state from its *functional* workings. Looking in part I at innovations in Canada's institutional structure will take us from the reconstitutionalizing effects on the federal and provincial governments of the new trade regime to the way that neoconservatism has reframed our cities.

Having established the effects of globalization on the *political* framework of government, the rest of the book looks functionally at the major policy areas of principal interest to Canadians. Part II contains eight chapters on *economic* policy, while part III deals with the more *societal* state functions of social, labour, environmental, cultural, and foreign policy.

After we have looked at the structural and functional changes wrought by globalization and neoconservatism on the Canadian political system, two general propositions will become clear. In the first place, the new forms of global governance – in whose construction Canada participated if only in a supporting role – have indeed significantly restructured the Canadian political system. In this reconstituted political space, neoconservativism has inspired Canadian politicians and their bureaucrats to adopt policies that have had a substantial, parallel, and direct impact on the country's fibre.

If I am right in this second step of the argument, there is a double answer to my friend's question. To start with, the issue is not *whether*, but *which* Canada will survive. Then, even if Canada's *form* has been partially determined by outside forces, its *content* has been determined mainly by agencies and agents that the public ultimately controls. So if citizens want a different Canada that embraces the kind of values that my friend holds dear, they will have to elect politicians who have the same sense of social justice. And they will have to be willing to pay the price for more egalitarian, sustainable, and progressive government.

Before we engage in this two-part analysis, we need to think more about how globalization challenges our notion of the state and what is special about the Canadian condition in North America, the subject of chapter 2.

2 The Peripheral State: Globalization and Continentalism

For several months after the federal election of November 21, 1988, had confirmed that Canada would ratify the Canada-United States Free Trade Agreement (CUFTA) over which Brian Mulroney had successfully fought his campaign, I mentally wore a black armband. I was in mourning for the exuberant, liveable, creative, hopeful Canada that my generation had tried to build and that 'free' trade seemed to have condemned to a lingering death. I had shared, and helped articulate in my research, the concerns of the millions who opposed Mulroney's deal. Deeper integration in the American system, we believed, would doom the efforts of many generations to build a better society on the northern third of the continent. CUFTA signalled the end of Canada as we knew it. It would strike at the heart of the government structures and programs in which we had lodged so much of our shared identity.

As I look back with greater serenity and detachment at the aftermath of this political battle, CUFTA has proven to be what both camps in the debate expected: a historical turning point from which there could be no return. It also turned out to be just the first round in a series of Canadian engagements with those broader economic and political forces that we now call globalization and that affect all countries. To situate Canada in its wider political-economy context, the next few pages will unpack both the concept of the state and that of globalization.

The Emergence of the Territorial State

Our starting point in attempting to understand the *Canadian* state under globalization should be to understand the changing quality of all states over time. This enterprise requires us to come to grips with a general truth about human beings and the societies they construct:

they experience constant change. As civilizations have risen and fallen, the political forms they have taken – their state structures – have also changed. Think of the small, but fiercely independent city states of ancient Greece. Think of the vast imperial states created by the Romans or the Byzantines. Think of the tiny feudal domains characteristic of the Middle Ages in Europe and of the victorious monarchies that later coalesced from their ranks through armed force and diplomatic guile. In 1648, when the Peace of Westphalia was signed after thirty years of devastating religious wars, the emergent kingdoms recognized each others' sovereign right to order their internal (particularly religious) affairs without outside interference. That watershed treaty marked the dawn of our own era: the state had become identified not just with religion, but with territory, with nationality, with military might, with sovereign power, and increasingly with language and even ethnicity.

What many refer to as the Westphalian or nation-state I call the 'sovereign' or 'territorial' state, because 'nation' is a highly contested concept in Canada among Quebecers and Aboriginals. This type of state is a relatively recent phenomenon, at the most 400 years old, and, for those that emerged from European colonial rule, under 50 years of age. If we join Max Weber in defining states as the institutions that divide the surface of the globe into discrete territorial units within each of which the government enjoys sovereignty – that is, a monopoly over the legitimate means of violence within its borders and a mutual recognition with other states of their right not to be interfered with from without – we must acknowledge that we are embellishing a notion of statehood from the very specific, nineteenth-century, Euro-American intellectual context of modernity. In this framework the idea of the modern state became endowed with many politically significant features that are now seen to constitute the essence of 'stateness':

- The modern state has a *constitution*, which creates governing institutions and determines how they are to operate in the political process.
- The modern state operates a government on *representative* and electoral principles, which allow it to call itself democratic.
- The modern state creates a public *bureaucracy*, which transmutes power into impersonal modes of authority.
- The modern state creates *rights* for its members, who enjoy special liberties, entitlements, and obligations as a consequence of their status as its citizens.
- The modern state also controls the market activities carried on within its borders, which are understood as *its economy*.

- Giving expression to its monopoly over the legitimate use of *coercion*, the modern state has armed forces to deal with threats to its sovereignty from without and police forces that repress threats to public order from within.
- The modern state fosters a *culture* that constructs its citizens' distinctive national identity and promotes a multitude of symbols such as a national flag and anthem, a national airline or broadcasting system.
- The modern state nourishes a *public domain*, which can be thought of as unalienated lands and natural resources and public spaces such as parks, streets, and buildings to which everyone enjoys free access.

Having sketched in the outlines of the ideal Weberian state, we need immediately to recognize that such a pure construction can never exist under contemporary conditions. No territorial state is ethnically homogeneous. No territory can be perfectly guaranteed against invasion or sabotage, as Americans learned on September 11, 2001. No economy can operate autarchically. No identity can be reduced solely to citizenship. No culture could be entirely contained within national boundaries. However inadequate Weber's notion of the state might be as a description of every political society's complexity, it helps direct our understanding empirically of what states actually *are* and our attitude normatively about what states *should be*.

The Canadian State

In the light of the sovereign modern state's evolution, it is immediately obvious that the Canadian version has been sovereign and modern only in theory. Canadian governments never fully controlled their economy, which has had high levels of trade dependence linked to imperial control. They have never been able to protect their borders without the help of the armed forces provided by their current protector – France, Britain, or the United States. Canada's culture has never come close to being fully self-generated. In these respects Canada was 'postmodern' long before modernism. Only in the political sense did it enjoy sovereignty, with complete control over its democratic processes, its bureaucracy, its courts, its police forces, and, eventually, its constitution.

Staple-Exporting Colony

Once the Americas were discovered by Europeans, who called them their 'new world' and wrested them from the hands of their native populations, they were ipso facto internationalized. What we now think of as 'Canada' is the present result of an evolving set of power struggles. First the military wars for dominance among the European monarchies decided the location of frontiers between their colonies far across the Atlantic Ocean. These conflicts continued within North America between settlers and Aboriginals, then between the colonies and their imperial centres, and later still among the three emerging Mexican, American, and Canadian states.

As a periphery first to Paris and later to London, the Canadian economy was from its inception part of a global commercial network, vulnerable to the political whims of the hegemon and subject to the world market's fluctuating demand and prices for its products. The long and painful transition on the northern half of North America from an Aboriginal to an industrialized economy was driven by an early form of globalization: the overseas demand from metropolitan France, then England for the 'staples' their explorers had found in this wild land mass – fish to start with from Newfoundland's Grand Banks, fur brought by native trappers to exchange for guns or liquor, later timber hacked from the virgin forests, and then wheat grown where the land was cleared of its remaining stumps.

Whether the colonial economy enjoyed boom or suffered bust depended on the play of *external* factors that had led to its creation in the first place. Transportation technology dictated how quickly cargoes could cross the Atlantic and make intercontinental commerce possible. Consumer demand in the motherland was the sine qua non of a peripheral economy. When fur hats were the rage in Paris, the beaver trade boomed in Nouvelle France. When they fell out of fashion, it plummeted. The availability of metropolitan capital was equally basic to establishing a colonial enterprise. When the Gentlemen Adventurers of England Trading into Hudson Bay pooled their financial resources in 1672 in the hope of making fortunes for themselves, a new era began in Canada.

Emerging Dominion (1867–1911)

Ever since Westminister created the Dominion of Canada through the British North America (BNA) Act some two centuries later, the postcolonial Canadian state has reconstituted itself in several strikingly different incarnations. From its inception, the Dominion's constitution was established under that of Britain, which exercised a supraconstitutional control of the Dominion's foreign and commercial policy, signing treaties with Washington and declaring war on Canada's behalf.

The central government in Ottawa controlled the territories and managed internal, country-wide affairs with its military, judicial, and economic powers defined in the BNA Act. Meanwhile the provinces shared sovereignty with the central government, having competence in resource management, schools, roads, welfare, and establishing municipalities.

Under John A. Macdonald and Wilfrid Laurier, who governed in most of the years from 1867 to 1911, the young Dominion had a minimal state structure as these leaders strove to use a centralized, party-driven, patronage-fuelled parliamentary politics to build what they called a 'nation.' This first phase of national policy connected a grouping of disparate colonies and territories to the British imperial centre through their eastward-oriented, staple-exporting economy using the first industrial revolution's technology of steam and telegraphy.

If we understand markets as overlapping systems of power that states try to manage to their greatest benefit, we can see Macdonald's National Policy of 1879 as his attempt to use the four simple policy tools at his disposal to create a more state-directed market out of the disparate colonial economies he had helped cobble together at Confederation. Ottawa appropriated millions of acres occupied by Aboriginals and used them as bait for enticing immigrants to risk roughing it in the wilds and clearing the bush for cultivation. The young federation's creditworthiness, which was greater than that of its constituent colonies, allowed it to float bonds in London and run deficits in order to finance the railway construction needed to open up the prairies to settlement and farming. The federal government's commerce power enabled Ottawa to institute a tariff that would generate revenue and induce would-be entrepreneurs from Britain or the United States to install their factories alongside those of local businessmen, protected from the competition of foreign imports. Lastly, Ottawa's Patent Act created a use-it-or-lose-it incentive to induce inventors to apply their new techniques commercially in Canada or to forfeit the right to exploit them in Canada.

These efforts of the fledgling Canadian state at fostering economic development by import substitution mimicked the pattern of other countries emulating British industrialization, but with two major differences. Vast though its territory may have been, Canada's population was too tiny to consume the primary products it harvested, and its manufacturing capacity was too embryonic to produce the range of finished goods it needed. Having refused to join the American colonies in cutting its economic umbilical cord, British North America retained the imperial market for fish, for timber from its watersheds, and for agriculture in the midwest. Even the new manufactured goods produced in central Canada found an external market that, at the end of the century, was secured by imperial preference rates, which gave Canadian exports privileged access to British consumers.

Canada's second distinguishing characteristic of capitalist development via tariff protection was its active encouragement of foreign investors. Chancellor Bismarck used the tariff to protect infant industries while they matured within the German customs union and empire, but he was careful to exclude foreign capitalists from taking over the commanding heights of the economy. Canada's disregard for the nationality of its immigrant entrepreneurs paid off handsomely for several decades. By the turn of the twentieth century, the young Dominion had the seventh-largest manufacturing economy in the world, on a par with Japan and somewhat ahead of Sweden. Its farm-implement industry was – to use the jargon popular a hundred years later – globally competitive, as was apparent when Massey Harris exhibited its mechanical reaper at the Paris World Fair of 1889. The product of a partnership between two Americans who had settled in Upper Canada, it became the prototype of a revolutionary new entrepreneurial form by establishing fully owned and controlled operations in many other countries to manufacture and market its burgeoning range of farm machinery and tractors.[1]

Federal Consolidation (1911–1935)

The Canadian state developed from the Conservative prime ministership of Robert Borden to that of R.B. Bennett (1911–1935) on the basis of a brokerage politics whose conflicts were mediated by a culture of inter-regional compromise and a newly meritocratic bureaucracy. The political class's defiant reliance on an individualistic, laissez-faire liberalism proved incapable of preventing capitalism's ultimate collapse in the early 1930s, when Canada was granted de facto autonomy from Westminster.

Canada may have helped invent the transnational corporation (TNC), but it ultimately became its victim, as this new technique of corporate management allowed entrepreneurs abroad to retain ownership and control of their production processes. The technology of the second industrial revolution (based on electricity, the telephone, radio, and the internal combustion engine) spread into Canada mainly by branch plants exploiting their intellectual property under foreign licence. At the same time, Canada shifted from shipping staples across the Atlantic for the British market to mining minerals or making newsprint, along with many other staples, to be sent south to satisfy a voracious U.S. demand. The most advanced Canadian industries in the twentieth century – automobile manufacturing, chemicals, petroleum, electrical equipment, pulp and paper – evolved in large part as American-owned branch-plant operations. Their technologically dependent relationship with their headquarters across the border and the resulting restricted scope for their Canadian managers' entrepreneurial initiative provoked a long, sometimes-bitter – and still-unresolved – debate about the liberating or constricting consequences of foreign direct investment.

Nationality of ownership became irrelevant when boom turned to bust. The moral crisis of capitalism precipitated by the Crash of 1929 and by increased protectionism, which turned serious recession into the Great Depression, produced intense pressure on politicians to remedy the social distress and dislocation that spread across the country. Liberals, who had been taught to believe that the state's role was to leave the economy to its own devices, were emboldened by new thinking in the 1930s from John Maynard Keynes in England about how the state could save capitalism by regulating and humanizing it. Galvanized by the need to marshal the country's resources for total war against fascism, Liberal politicians and their British-trained civil servants in Ottawa under Prime Minister William Lyon Mackenzie King revolutionized the state's role in directing the economy during the early 1940s. They fixed prices to contain inflation. They rationed distribution to husband supplies. They created crown corporations to produce necessary goods, such as synthetic petroleum, or to provide services not offered by the private sector, such as trans-Canada air transport.

State Keynesianism (1935–1984)

Following this heady experience with state-mobilized capitalism, Canada's rulers relaxed their near-total control of the economy's functions but retained the general role of manager. They could justify their continuing involvement in managing the market by invoking Keynes's two-track formula for state activism: on one level, counter-cyclical macro-economic adjustment, and, on the other, direct transfers to individuals through public spending on social programs such as unemployment insurance and baby bonuses, publicly provided medical care, and old age security.

The governments of King and Louis St Laurent (1935–1957) pioneered their Keynesian mode of regulation under the aegis of a central government supported by a consociational consensus of the country's political, corporate, and media elites. Complementing this Keynesianism was a 'Fordist' consensus that was worked out on the factory floor. State-regulated collective bargaining granted organized labour a share in the returns produced by mass-production manufacturing under conditions of growing productivity rates and an increasingly acquisitive society, whose consumerism was activated by the insistent taste-making of the mass media.

The Keynesian formula produced a remarkable economic success. From the end of the Second World War in 1945, it presided over a 'mixed' economy, in which the federal and provincial public sectors, with considerable governmental bureaucracies, some strategic crown corporations, and many regulatory bodies, coexisted with a tariff-protected private sector. Its technologically advanced industries were in most cases dominated by American companies, which supplied consumer goods from their local branch plants and operated alongside a few Canadian-owned sectors – most notably, the steel industry, the pulp and paper sector, the banking oligopoly, and the regional telephone monopolies. Thanks to the Fordist compromise between management and the trade unions, wages went up in conjunction with productivity, so that annual real income rose dramatically, from $12,000 per capita in 1961 to $17,000 in 1971 and $22,000 in 1981.[2]

The reference point for my assessment of the Canadian state under globalization is the next period, initiated during John Diefenbaker's turbulent incumbency (1957–63), after which Lester Pearson (1963–8) and Pierre Trudeau (1968–84) attempted to consolidate a social security state. Although Canada has always been a fundamentally liberal country, deeply sceptical of coercive and concentrated state action, Keynesianism was based on a more activist liberalism, which wove market functions into the social fabric, subordinating moderately liberalized trade and international capital movements under the pax Americana to the interests of domestic macro-economic management.

The achievement of formal political sovereignty occurred in 1982 when Westminster passed the final act that ceded to Canada the sovereign power to amend its constitution, now the Constitution Act, 1982. Britain's vestigial and de jure supraconstitutional authority over Canada had long been replaced by the United States's informal but de facto supraconstitutional suzerainty.

The Canadian-American Relationship as a Constitutional Order

Keynes did not deserve all the credit for Canada's postwar economic success. Even if Ottawa had followed his prescriptions religiously – and Liberal politicians violated them whenever they proved uncomfortable – Canada's capital market was too integrated in the U.S. financial system for Ottawa and the provinces ever to follow the Cambridge economist's advice to the letter. Only myopia kept Canadians from recognizing how much their economic success was due to growth in the U.S. economy, to which theirs was as firmly attached as a caboose to a freight train by links that were societal, cultural, and political as well as economic.

Along with intense investment and trade, the cross-border flow of people, ideas, fashion, culture, sports, and societal organizations had developed a constitution-like stability. U.S. relations with Canada had unobtrusively developed a number of behavioural conventions that expressed the two states' interests in mutual co-operation without setting up formal institutions to govern their relationship.

The United States had long applied a strategy of maintaining Canada as a complementary economy while preventing it from becoming a competitive one, freely admitting its raw materials but slapping high tariffs on its manufactured exports aimed at the U.S. market.[3] Washington never officially formulated a comprehensive set of demands concerning how the federal and provincial governments to the north should – or, more important, how they should not – behave. For its part, Canada resisted institutionalizing its crucial bilateral relationship, preferring to deal with its overwhelming neighbour either on an ad hoc basis, issue by issue, or in multilateral forums, where it could form alliances with other countries on specific problems it had with Washington.[4]

Despite Canada's integration in North America not being formalized by any overarching document or institution, there were clear portents by the mid-1960s that this continental dyad was developing an unwritten, convention-based order, demonstrating the eight features considered characteristic of a constitution.[5]

- *The will* to manage North America as a common community had been palpable since intense military and economic co-operation began in the common effort to mobilize the continent's resources during the Second World War.
- *Basic norms,* understood as regularized constraints on behaviour, were worked out by the civil servants and politicians responsible for managing the relationship. Both sides tacitly agreed that Canada should not overtly criticize American foreign policy. As quid pro quo, the United States was not to bully Canada. These principles were actually elaborated into a doctrine dubbed 'quiet diplomacy' to indicate that Canadian-American conflicts were to be mediated as much as possible by bureaucrats behind closed doors in order to keep political tensions at bay.[6] One such rule, derived from the need *quietly* to manage a relationship between two highly unequal states was the norm of not 'linking' issues. This meant, for instance, that a conflict over a cultural matter, such as Ottawa's legislating out of business the Canadian edition of the American *Time* magazine, was not to be complicated by U.S. threats of retaliation affecting bilateral trade in, say, steel.
- Formal *policy-making institutions* did not exist beyond the military entity created by the North American Air Defence Command (1957), but continental policy making took place within such sub-systemic, private-sector institutions as TNCs, American trade unions with Canadian branches, sports conglomerates such as the National Hockey League, professional associations such as the Canadian Medical Association, and the production and distribution networks of the mass entertainment industry.[7] Within each of these economic or cultural sectors, the overwhelming weight of the American system compelled the Canadian component to play by the Americans' rules. Many aspects of Canadian policy operated in lockstep with their American counterparts to the extent that, for instance, the formally autonomous Bank of Canada's me-too interest rate behaviour earned it the sobriquet of 'the thirteenth district' of the Federal Reserve Board. Similarly, the power of New York's stock exchanges induced Canadian exchanges to adapt their own rules to those of the larger system. All Western countries were integrated within the economic imperium created by a dominant U.S. dollar and experienced some degree of dependence. But in Canada's case, the handful of formal and the multitude of informal institutions generated a unique stability of expectations, predictability of behaviour, and regularized

co-operation between the hegemon and its nominally sovereign but deeply dependent neighbour, which continually legitimized the relationship by calling it 'special.'

- Washington accepted tacit *limits* to the exercise over Canada of its enormous structural power, provided that Ottawa supported U.S. anti-communist foreign policy abroad.
- American corporate citizens enjoyed *rights* of access to Canadian resources and markets. Canadian firms, even if mainly branch plants of U.S. TNCs, had certain rights as well: access to bidding for Pentagon defence contracts, for instance. Citizens of both countries generally enjoyed greater mobility in being able to emigrate to each other's country than did people from other states.
- Because the Canadian-American system was not formally institutionalized, it lacked any *judicial process* for resolving disputes. Conflicts were dealt with through diplomatic negotiations or sub-systemically within, for example, the U.S.-dominated labour movement.
- *Enforcement* of the rules of this intuitively understood bilateral game was made possible by the high level of trust that developed among the relevant decision-makers in each political system. On the American side, knowledge that there were so many U.S. interests involved in the relationship militated against letting any particular dispute get out of hand. On the Canadian side, the understanding that the United States could at any moment unleash damaging retaliatory measures required extremely careful responses to American pressure. Otherwise, once Canada became the object of political agitation in Congress, civil diplomacy gave way to threatening U.S. demands that Ottawa change its errant ways or be punished.[8]
- Significant *amendments* to this largely unwritten entente were made only after extensive consultations or negotiations generated specific agreements such as the Auto Pact of 1965.
- *Ratification* of this special relationship took the form of the two nations' leaders making ritualized references, as they waxed eloquent during bridge-opening ceremonies and after banquets, about the marvels of the world's longest undefended border.

Neither capital contemplated aborting the deeply routinized bilateral relationship, which seemed to be progressing sector by sector towards the two economies' full integration – until 1971. On August 15 of that year, under the balance-of-payments strain caused by his massive imperial overstretch in Vietnam, President Richard Nixon detached the U.S. dollar from the price of gold and imposed a surcharge on all imports. 'Nixonomics' was unleashed on the world to deal with the United States's global economic problems, but closer to home it broke bilateral conventions developed over previous decades, threatening to throttle Canadian exports and close down American direct investment. Although the U.S. president forebore at the last minute from precipitately torpedoing the Auto Pact, he went out of his way to end the special relationship unilaterally. He travelled to Ottawa the following spring to declare pointedly before a joint session of Parliament that Canada should think of itself as an independent state.

Exploring the Third Option (Increased National Autonomy) (1972–1984)

The Nixon bombshell ushered in a decade and a half of instability in Canada's relationship with its hegemonic neighbour, in which a phase of apparent autonomy prepared the way for a formal reconstitutionalization of its subordinate position. Trudeau commissioned a review of the American relationship that laid out three possible options, of which the first was maintaining the status quo and the second was pursuing deeper continental integration. Taking Nixon's advice to heart, the Trudeau government chose the third option of diversification to reduce dependence. Over the ensuing decade the Liberal government introduced many measures aimed at re-establishing federal control over the economy. After decades of treating U.S. firms as good Canadian citizens (an approach that was later known as national treatment), federal policies started discriminating in favour of Canadian capital. Most salient in the mid-1970s were agencies established to screen foreign direct investment (the Foreign Investment Review Agency) and to promote domestic ownership of the economy (the Canada Development Corporation). Then in 1980 came the Liberals' ambitious and notorious National Energy Program (NEP), which was designed to channel economic rents from resources into industrial development. This assertion of authority by the Canadian state over its economic space marked the apogee of its attempt to construct a dominant territorial state and to slow integration – at least at the political level.

Nixonomics and Ottawa's 'Third Option' response interrupted for a decade and a half the steady maturation of an informal Canada-U.S. regime. The U.S. State Department felt it could do nothing about

Ottawa's moderately nationalist response to its own government's chauvinism. Trudeau was a difficult politician to influence, since he was so largely indifferent to American values. Nettled when a continental energy deal was aborted, Washington held its breath and waited for Trudeau to leave the stage.[9]

Since Canadian business was no longer operating as though the national market was its bailiwick, the Trudeauites' efforts to shore up a mode for regulating a national economy came too late. The NEP's politically catastrophic dénouement two years later signalled the disjuncture between activism in a weak state and its economy's inability to resist the hegemon's gravitational pull. The failure of the Trudeauites' unusually progressive budget of 1981 marked a watershed in the Canadian state's trajectory of continual growth.[10] From that moment it began a gradual, tortuous, and bumpy slide towards a neoconservative reconfiguration along overtly continental lines.

By the 1970s Canadian firms were already encountering difficulty competing in their own market because of declining tariff protection. In their quest for survival they searched for space in the American market where they could invest and participate in a regime of corporate accumulation that was becoming increasingly continental in its orientation. How they fared there depended on forces largely beyond Ottawa's control, since its trade policy could do little except watch out for Canadian interests as the United States negotiated with its partners in the GATT the gradual reductions of the tariff rates that countries imposed on their imports. Trade negotiators were little-known officials with an obscure expertise that was respected more at GATT's headquarters in Geneva than it was in Ottawa. Trade commissioners were second-string civil servants and sometime diplomats in the federal Department of Industry, Trade and Commerce (IT&C) whose primary, and generally losing, struggle was to have their liberalizing goals in the trade and commerce sections prevail over the protectionist proclivities of their counterparts in the industry side of the department.

When nationalists in the federal Liberal caucus lost their battle in the early 1980s to enhance the interventionist thrust of federal industrial policy, the Trudeau government took the first, tentative steps towards considering commercial policy as an alternative route to boosting the economy's performance.[11] It moved the trade commissioners' service from IT&C and integrated it in the foreign service in what turned out to be the bureaucratic equivalent of a reverse takeover. Having been marginal in their old structure, the small band of liberalizing trade commissioners became the driving force in their new home.

The first indication of trade policy's dominance in Canadian foreign policy thinking came in an interdepartmental trade policy review. Although the report favoured total free trade as the solution, the timid recommendation that emerged in late 1983 was merely to propose several sectors to the United States for consideration as candidates for managed free trade arrangements similar to the Auto Pact. Even sectoral free trade seemed too bold for the politics of the period, if not for the times themselves. When discussions with Washington concerning a number of possible sectors, such as computers and transportation equipment, failed to produce a potential deal that would equitably balance gains and losses on the two sides, the idea was dropped – to the great relief of a government whose caucus was dominated by economic nationalists from Ontario.

Choosing the Second Option (Increased Continental Integration) (1984–)

The victory of Brian Mulroney's Tories in the 1984 federal election does not itself flag the turning point for Canada's radical shift in the neoconservative direction. The bilingual anglophone labour lawyer and manager of a staples-extracting branch operation who hailed from the Quebec resource hinterland was unabashedly pro-capitalist and pro-American – an admirer of Ronald Reagan and his British booster, Margaret Thatcher. But his intellectual capacities were modest, his ideological convictions negotiable, and his policy positions opportunistic. During his campaign for the Progressive Conservative Party's leadership in 1983, Mulroney had poured scorn on the very idea of free trade as a way to shore up his position in Ontario and to attack his challenger, John Crosbie. As leader of the opposition he had taken positions in favour of universal medicare and official bilingualism that seemed to guarantee greater continuity for the interventionist welfare state than did the state-shrinking ideas about cutting government spending and reducing the federal deficit that John Turner expressed while campaigning a year later to succeed Trudeau as Liberal leader.

Nor can the shift to neoconservatism in Canada be credibly presented as the extension of an irresistible tidal wave that was driving Keynesianism onto the rocks on every national shore. To be sure, there was a changed ideological context in the early 1980s. Margaret

Thatcher had swept to power in Britain in 1979 with her militant program to decimate the welfare state. The Iron Lady's unflinching, 'there-is-no-alternative' conviction certainly bolstered support for Ronald Reagan's campaign in 1980 to get government off the backs of business and powered her second majority victory in 1983. In the Antipodes, New Zealand had become the neoconservative exemplar – a once-generous welfare state that had cut its services to the bone. But continental Europe was steadfastly resisting the new siren song. And, in the Far East, two dazzling new dragons, Taiwan and South Korea, were about to bring in welfare state measures in the wake of dramatic moves to democratize their previously authoritarian (and parsimonious) states.

While the corporate base for an increasingly vocal Canadian neoconservatism in the mid-1980s was the foreign- and domestically owned TNCs grouped under the powerful lobby known as the BCNI (Business Council on National Issues), its institutional base had been the federal Department of Finance ever since the Conservative Michael Wilson, a product of the Toronto business community, had become its minister. Wilson's first economic statement, issued in the autumn of 1984, had already challenged the nostrums of the previous forty years.

According to the finance department's revised wisdom, the state's proper role was no longer to pursue internal equilibrium by attempting to manipulate aggregate demand. Past efforts to do so by running budgetary deficits had not reduced unemployment levels while succeeding only in accumulating a monumental national debt. Efforts to develop microeconomic and interventionist industrial strategies had failed. Instead of pursuing state activism, government ought to liberate the market from excessive regulation so that the economy could play the central role in job creation and growth that was deemed to be its proper function. This neoconservative analysis knitted macroeconomic, industrial, and trade policy together into a coherent pattern that buried Keynes.

Although this argument was coherent, its persuasive power within Mulroney's cabinet was limited. By the late summer of 1985, however, the prime minister faced a serious dilemma. Despite his huge majority in the House of Commons, he was leading a scandal-wracked government. Worse, it was wallowing in indecision because he had not managed to give it a clear direction. One day after a not-so-euphoric celebration on September 4 of his first anniversary in office, Mulroney received an unlikely gift from the gods – or, rather, an unintended gift from his predecessor.

Three years earlier, when Trudeau's efforts at post-Keynesian, microeconomic interventions were being widely denounced as failures, he had agreed to launch an arm's-length review of the Canadian government's policy options. He appointed his former finance minister, Donald S. Macdonald, to chair a royal commission on the Economic Union and Development Prospects for Canada and to recommend an agenda for what it was assumed – with typical Grit hubris – would be the Liberal Party's next period in government, as it led the country towards the new millennium. As events unfolded, Macdonald did indeed provide an agenda for the governments that took Canada into the twenty-first century. But the action program he designed was to reverse – not perpetuate – the trail blazed by the Trudeauites. And it was executed not by state-friendly liberal governors who were wary of the market, but by market-friendly conservative officials who were wary of the state.

Macdonald's recommendation of free trade coupled with a rejection of Canada's historical commitment to an active state offered an immediate solution to Mulroney's agenda problem.[12] The 'optics' were excellent. Its three thick volumes were the product of $21 million spent on academic research and public consultations. Given his impeccable Liberal credentials, Macdonald's prescription could not be accused of partisan, pro-Tory bias. Nevertheless it would steal the thunder from John Turner, now leader of the Liberal opposition. Better still, the report's anti-statist positions fitted nicely with those being put forward in Finance by Wilson.

In Macdonald's vision, trade policy would play a new, central role in Canada's economy. It was his belief that, in a geographically fragmented market largely open to foreign imports after three decades of steady tariff reduction, manipulating domestic demand could no longer provide the impetus for industrial development. Rather than encourage economic development with the industrial-policy stimuli of various hands-on, state-provided carrots, trade liberalization offered a large, threatening stick: it would force firms to become competitive with their international rivals or face extinction. Keynesian-era incentives were to give way to globalization's Damoclean sword. If they rose to the challenge, made a leap of faith, and survived the cold shower of competition – all clichés popular among trade liberalizers – entrepreneurs would find pots of gleaming gold. Access to global markets would create the virtuous circle caused by economies of scale: falling costs would accrue from rising sales and engender greater profits, allowing more investment in new technologies and so further expansion. The way to liberate the market was to abandon protectionism and statism and to opt for global free trade.

But there was an impediment in the trade liberalizers' program. GATT was so weak as a forum for arbitrating trade conflicts that it was dubbed sarcastically the 'general agreement to talk and talk.' In the mid-1980s, when a proposed round of negotiations on difficult new issues such as services and investment seemed irredeemably blocked by extensive differences between the European Union (EU) and the United States, leading economic bureaucrats in Ottawa became convinced that the only way to pre-empt a new wave of congressional protectionism threatening Canada's vulnerable export dependence on the U.S. market was to negotiate a bilateral deal directly with Washington.

Once Mulroney accepted the prescription (notwithstanding clear indications that he did not really understand it),[13] he allowed no shilly-shallying. In October 1985, when he wrote to Reagan formally requesting negotiations between the two countries, he started a process that would start to reconstitute the Canadian state. Replacing Trudeau's Third Option with the previously unthinkable second option of increased continental integration, he reversed thirteen years of his predecessor's efforts to increase Canada's parlous autonomy vis-à-vis the United States. At the same time he renounced the protectionism that had been his party's core belief since John A. Macdonald had announced the National Policy in 1879. Rejecting Canadian governments' longstanding instinct to resist formalizing their relationship with the United States, Mulroney embraced trade liberalization with a determination bordering on zealotry. Free trade had become in his mind a panacea for Canada's ills, and nothing could stop him achieving it.

He put in place believers who would implement the program without deviating from his objective: making a deal with Washington at virtually any price. The chief trade negotiator, Simon Reisman, was a business lobbyist and former deputy minister of finance who turned his appointment into a heaven-sent opportunity to make his mark on history. Having been impressed by the toughness and commitment demonstrated by Derek Burney from the Department of External Affairs in organizing Canada's so-called Shamrock summit with Reagan in March 1985, Mulroney appointed the diplomat to the partisan position of principal secretary to maintain discipline in the Prime Minister's Office (PMO) during the negotiations. Those people with doubts or minds of their own were marginalized, whether it was Pat Carney, the trade minister who was nominally in charge and whom Reisman systematically ignored, or Sylvia Ostry, the Ottawa mandarin who was the most seasoned Canadian bureaucrat in international economic negotiations but was relegated to the multilateral GATT negotiations that were apparently going nowhere.

For its part, the United States in the mid-1980s was apprehensive. Its economic hegemony was being challenged by the resurgence of rival states in Europe as well as in Asia, which had used their governments to create competitive advantages for their national champions. Washington had been strengthening its already-powerful unilateral measures to strong-arm individual countries to change policies it felt too restrictive of American exporters or investors and too generous to their competitors. But using the blunderbuss of retaliatory threats on a country-by-country basis was not a satisfactory process because it generated disproportionate displays of ill will. And, in the case of the EU, which had become as powerful as the United States, and Japan, on whose capital exports the U.S. was increasingly depending, crude retaliatory threats were decreasingly effective and sometimes even counterproductive. More important, Americans knew that their economic success in the twenty-first century lay in exploiting their global lead in the information-based sectors, just as their success in the twentieth century had been based on exploiting their regional lead in manufacturing.

To ensure that its high-tech and knowledge-driven corporations could profit from their superiority and prevent other countries from pirating their knowhow, Washington wanted to expand the reach of the global trade rules administered by GATT to include investment conditions, the sale of services, and intellectual property rights. However, the prospects for such a transformation of the international economic order were bleak. The Uruguay Round – GATT's eighth – of multilateral trade negotiations, which had been dragging on since 1986, was in gridlock. As a second-best expedient, Washington decided to use bilateral negotiations with compliant partners in its own immediate sphere of influence as a strategic tool. 'If a multilateral treaty is not negotiated to our satisfaction,' the Americans were hinting heavy-handedly to their commercial rivals, 'then we will continue to negotiate one on one, proceeding beyond Israel, Canada, and Mexico to our next most compliant trade partners until the most obdurate amongst you are completely isolated.' By this tactic, Washington intended to establish important precedents for the ongoing multilateral talks and exert pressure on the Uruguay Round palavers.

When negotiations began in 1986, it seemed unlikely that an agreement would be reached because Ottawa's positive aim (exemption from U.S. trade-remedy legislation) and the defensive goals that Macdonald had advised (not to negotiate the politically sensitive issues of culture, energy, agriculture, and the Auto Pact) were unacceptable to the U.S. negotiators, who aggressively targeted what they viewed as objectionable Canadian policies while adamantly refusing to put their own protectionist policies on the table. An inherently unequal match made more asymmetrical by the urgency with which the PMO defined the need for an agreement and the inflated claims that the government made about the gains expected from 'free' trade meant that it was negotiating on its knees with the world's most powerful nation. Ottawa made the major concessions on the big questions – some of them even before negotiations started. Washington made a token concession in accepting the creation of a novel dispute settlement process. The two negotiating sides may have represented neoconservative governments, but only the Canadians seemed to believe their own rhetoric. While Ottawa boasted it was divesting itself of significant powers to monitor foreign direct investment or to set energy prices, the American state refused outright to limit its own sovereignty.

Having come close to electoral defeat in 1988 over this politically risky strategy, the Mulroney government found itself in 1991 reluctantly obliged to negotiate still more invasive concessions the moment Mexico City and Washington became serious about developing their own economic agreement. Apprised of this unanticipated negotiation, Ottawa feared that the advantages it claimed to have won in CUFTA might be lost if Mexico worked out its own deal with the United States. Volunteering warships from the Canadian Navy to support the American 'Desert Storm' war against Iraq, Mulroney prevailed on President George Bush to turn the Washington-Mexico City dialogue into a trilateral effort to establish an agreement on continental market integration. Canada was duly admitted to the talks, where CUFTA was used as the template for negotiations.[14]

Apart from its many provisions explicitly concerning Mexico, the North American Free Trade Agreement (NAFTA) deepened CUFTA by expanding its institutional structure, changing the dispute settlement mechanism, altering the Auto Pact, broadening the investment provisions' coverage, and, alongside many smaller changes, adding what was to prove a politically explosive capacity for foreign corporations to sue host governments. NAFTA increased the revised trade rules' limits on Canadian and Mexican policies (particularly in introducing tough intellectual property rights benefiting U.S. pharmaceutical industries) and reduced their effect on U.S. sovereignty (weakening the dispute settlement process).

When NAFTA showed the EU how far the United States was able to go in incrementally pushing forward its international trade agenda on investment, agriculture, services, and intellectual property rights, and when President Clinton's enthusiasm about Asia Pacific Economic Cooperation suggested that he might be developing a U.S.-led Pacific-rim trade area, Brussels realized it was time to give up its GATT stonewalling. The American strategy for breaking the Uruguay Round's logjam had proved successful. But the astonishingly impressive results institutionalized in the World Trade Organization (WTO) in 1994 had a 'constitutional' significance for its signatories that surprised trade analysts everywhere.

Reconstituting GATT as the World Trade Organization

Since the early 1980s, the Canadian trade policy community has held firmly to a clear and simple credo. As a mid-sized state, Canada is better off in a *rules-based* system with a dispute settlement mechanism strong enough to enforce the rules than it is in a *power-based* system in which might defines right. The corollary of this axiom argues that Canada is better off in a *multilateral* rules-based system, in which it can form alliances with countries of various sizes but similar national interests, than in a *bilateral* one with the world's only hyperpower. Both positions beg important questions: Who gets to make the rules? In whose interests are they written? How are they interpreted when they are applied: in what kind of tribunal, and with what kind of judges and legal processes?

In practice, GATT's rule-making process itself was based on the world's existing power system. Unlike the United States's control over NAFTA's contents, agreements with the EU and Japan had to be worked out in the tough Uruguay Round. As a result, the WTO's global rules incorporated norms favouring these three regional powers' general interests, as well as the specific objectives articulated by their globally competitive corporations.

For this reason, multilateralism does not necessarily present Canada with a real escape from a U.S.-defined supraconstitution. Indeed, much of the constraint that the WTO imposed on the Canadian state in the first few years of its existence has been an application of Uncle Sam–driven demands that Canada comply with Uncle Sam–inspired rules on behalf of Uncle Sam–based pharmaceutical and entertainment giants – as we shall see in the next two chapters.

PART I

The Polity: Reconstituting the Canadian State

CHANGE FROM WITHOUT

We need to examine in what way the evolution of continental and global levels of governance affects the freedom formerly enjoyed by the sovereign state to run its own affairs. We do this in chapter 4. But the relationship between national and external constitutional orders is not a zero-sum game in which the creation of higher governance levels causes only losses at lower ones. A decline in a state's internal sovereignty may be partially offset by its capacity to exercise external sovereignty through participating in the deliberative processes at the continental and global levels that establish the norms, regulations, and disciplines it subsequently imposes on itself. In Canada's case global governance in economic matters starts on the continent with the North American Free Trade Agreement before moving to global institutions like the World Trade Organization (chapter 3).

This page inte

3 Continental and Global Governance

When I was asked by CTV News to comment on the tens of thousands of demonstrators who had converged on Seattle to protest during the World Trade Organization's second ministerial meeting, my interviewer wanted me to answer two questions. Why were trade unions and environmental organizations hurling invective, if not stones, at an institution that dealt with commerce rather than labour or the environment? And why was so much upset being expressed then, in November 1999, rather than in 1995, when the WTO was first established?

I said the answers lay in the WTO's dual reality. It had been created out of the General Agreement on Tariffs and Trade as an international economic institution but with such extraordinary power that its rules on trade, investment, and services turned out to trump international labour conventions and multilateral environmental treaties. The trade unions and environmental movements had been asleep at the switch during the long years from 1986 to 1994 when the GATT's Uruguay Round of negotiations had followed their halting course behind closed doors. Only when they realized how serious was the damage done to their interests by the WTO did they belatedly react and target it as a serious problem. They had awakened finally to the importance in their lives of global governance.

We will see in the next chapter that NAFTA's rules arguably have a more constraining supraconstitutional impact on Canadian governments than do those of the WTO. But before looking at the way that NAFTA and the WTO have reconstituted the Canadian state, we need to understand what kinds of continental and global governance they have established.

NAFTA as Continental Governance

The very desire to negotiate the broad sets of economic rules contained in NAFTA established the first prerequisite for a formalization of the United States's relationship with its two neighbours, because it indicated the *will* of all three countries' economic and media elites to have North America's regime of accumulation guided by a common neoconservative vision. However, the desire for a continental rule book did not include the wish to have a strong supranational governance that might resemble in any way the elaborate structures of the European Union. In fact, an integrated North American market is being forged by corporations operating continentally thanks to NAFTA's new investment and trade rules[1] but without a corresponding mode of governance for the continent.

What was striking about CUFTA's institutional structure was its almost complete absence. No policy-making institutions were established beyond the Canada-United States Trade Commission, which was set up on paper but not in practice. With neither a supranational secretariat nor a permanent address, it consisted merely of periodic meetings of the two countries' trade ministers who had powers to decide a limited number of issues such as how to implement recommendations to resolve arbitrated disputes.[2]

NAFTA told a slightly different story, that of minimal institutional deepening in the interests of maintaining maximal member-state sovereignty. It created as its executive body a North American Free Trade Commission, which consisted of once-yearly powwows by the three countries' trade ministers, who retained final authority to supervise NAFTA's institutional mechanisms, resolve disputes over interpreting its text, and take whatever steps might be necessary for its future development. NAFTA's decision-making was to be by consensus, which meant that each 'party' retained a veto over common business. In effect, the executive side of North American governance consisted of little more than the two bilateral Canada-U.S. and Mexico-U.S. relationships supplemented with a newly animated relationship between the two peripheral parties, all under the umbrella of the agreement.

However flimsy as a structure, the Free Trade Commission has substantial potential powers beyond supervising the work of NAFTA's various working groups and commissions. Chief of these is the authority to make interpretations of NAFTA's clauses and annexes that would be binding on arbitration tribunals set up under Chapter 11.

This power, which is in the hands of the three parties' trade ministers and could transform the impact of the agreement and create further norms, is a potentially supraconstitutional feature of the new continental governance. Through it, if the heads of government and the trade ministers from the three NAFTA states wish to interpret an existing norm, they can do this without any reference to their executives, their legislatures, their courts, or their publics.[3]

CUFTA's non-existent secretariat morphed into NAFTA's never created International Coordinating Secretariat, an agency that was to register complaints, organize the dispute panels, and co-ordinate the agreement's many working groups. Instead, each country established within its trade bureaucracy a NAFTA office to monitor ongoing disputes.

Even more invisible to the public, NAFTA has several dozen working groups, working subgroups, committees, and subcommittees that are mandated to examine particular common issues, typically those requiring a harmonization of some standard important for continental economic integration, such as the rules applying to the transportation of hazardous waste.[4] Other ad hoc groups are set up by the three governments to report on common problems such as the expansion of the continental energy market. Staffed by government officials and by employees of corporations with interests in the particular field, these groups act as a channel of communications among the various policy communities that take the place of continental governance in North America. Whether they operate with greater or lesser intensity, they remain well shielded from scrutiny by voters or even legislators in the three states whose functions they in part pre-empt.[5]

Some institutional deepening can be seen in NAFTA's two more narrowly mandated organizations, which were established following supplementary negotiations insisted on in the early 1990s by a newly elected Clinton administration anxious to appease its labour and environmental supporters.

First, the North American Agreement on Labour Co-operation (NAALC) created a trinational Commission for Labour Co-operation (CLC) whose executive was made up of the three national governments' labour ministers.[6] After some delay, a secretariat headquartered in Dallas (but subsequently moved to Washington) was set up to report on each country's labour laws and to encourage compliance with them. The object of this exercise in symbolic politics was to assuage U.S. trade union concerns about the export of jobs caused by the social-dumping effect of Mexico's lax enforcement of its legislation on workers' rights. Since labour law comes largely under provincial jurisdiction and since few provinces signed on to the NAALC, the CLC has minimal import for Canada beyond encouraging some labour unions to exchange information with their Mexican counterparts, as we shall see in chapter 16.

Second, the North American Agreement of Environmental Co-operation, NAFTA's other side deal, created in Montreal the Commission for Environmental Co-operation. This tripartite organization, whose professional secretariat was given supranational standing (even if its budget came directly from the three governments), constituted the most promising aspect of continental governance, because it incorporated citizens directly in its processes, although its actual effectiveness has been found wanting, as we shall see in chapter 17.

Apart from the labour and environmental organizations, whose substance remains very much in doubt, NAFTA has not created a pro-active entity with the executive or legislative power to regulate the newly liberalized continental market it established. Nor does it have the dynamic capacity to make new rules when they appear needed or the authority to interfere with any of its member-states' sovereignty – apart, that is, from the considerable limitations on their autonomy dictated by the trade agreements' many stipulations.

CUFTA and NAFTA are significant legal documents that have been toughly negotiated, ceremoniously signed, solemnly ratified, and formally implemented in the legislation of the three negotiating parties. Although the language of trade agreements expresses a studied symmetry, in which each 'party' has rights and obligations, they betray in practice a noticeable disparity in their respective ratification processes. Canada and Mexico have adopted these undertakings as if they were treaties and have passed the necessary legislation to implement them and make the required changes in their existing laws. The United States participated in the same formal process of passing implementation legislation. However, NAFTA specifies that any subsequent act of Congress can amend this legislation. Washington's future protectionist measures will apply to Canada with the slight proviso that they must explicitly mention Canada. This means that the peripheral states do not have in NAFTA a guarantee against the hegemon's changing the rules of the continental game without their consent.

Nor is there anything in continental governance that might give the two neighbouring states some say in or influence over the hegemon's policy-making. Apart from the three parties' agreeing informally to alter practices established by NAFTA, the agreement would require new negotiations and legislative implementation to be amended. If Mexico and the United States do not want to accede to Canada's desire to reword the expropriation clause in Chapter 11, this amendment will not happen. Consensus, which gives a veto to each member-state, constitutes a high hurdle for achieving normative change and gives the document more constitutional substance. However, this rigidity could condemn NAFTA to irrelevance in the longer run if other trade regimes such as the WTO are more capable of generating new rules in response to changed circumstances.

De facto asymmetry characterizes NAFTA's formally symmetrical clause defining how any 'party' can abrogate the agreement: it needs only to give its partners six months' notice of its intention. The threat of abrogation has a very different weight in the hands of Washington than in those of Ottawa or Mexico City. American interests would be affected – but not radically so – if Canada or Mexico defected from NAFTA. Disaster would be the assumed impact on either of the peripheral states should the United States abrogate. Following their virtually complete integration in the continental economy, they would be forced to their knees if Washington threatened to terminate its participation in the agreement, a technique it used when it forced Hawaii to join the United States late in the nineteenth century.

NAFTA was carefully designed to prevent any form of continental governance from developing. In the name of their own sovereignty, the three governments have already taken steps to hobble the supranational autonomy of the Commission for Environmental Co-operation. In the interests of perpetuating their separate systems, they are firmly resisting the creation of a North American monetary union that might clone the EU's Monetary Union.[7] Far from encouraging greater political integration, its two English-speaking member-states are carefully monitoring their borders to obstruct unwanted immigration from Mexico. President Vicente Fox pushed Washington to regularize the illegal status of millions of Mexicans in the United States, but it responded to its new concern with terrorism by building up, not cutting down, its border controls.

CUFTA and NAFTA do indeed represent a sea change for the two peripheral members of North America. Far from producing a system of continental governance in which Mexico and Canada would have had some influence, their texts have reconstituted American hegemony in the form of an economic rule book that establishes an unevenly liberalized market and a set of supraconstitutional constraints on the policy-making options of both Canada and Mexico. That NAFTA does not limit the United States's traditional use of its power became clear following the catastrophe of September 11, 2001, when Washington specified in great detail what security measures it expected Canada to take. The failure of the three governments to call a special meeting of its Trade Commission further indicated that NAFTA was tertiary in its importance as a form of governance for dealing with issues that the United States considered urgent.

Autonomy does not mean equality. Indeed NAFTA appears to have increased the power asymmetry between the hegemon, whose legislative and administrative orders are little affected, and its neighbours, which have had to make significant changes (in Canada's case) and counter-revolutionary transformations (in Mexico's case). The agreement's critics considered its provisions as both too intrusive in pre-empting decisions that should more properly be made in its two peripheral member states and too ineffectual in disciplining the continental hegemon. The first defect was soon intensified and the second defect partly remedied when, in 1995, some 130 states signed the landmark treaty creating the World Trade Organization, to whose judgments even the United States would in principle have to submit.

The WTO as a Prime Regime of Global Governance

A patchwork quilt of institutions purporting to establish a system of international management has been growing ever since the Atlantic powers started planning a new global order during the Second World War. On broad political, social and cultural matters, the system took the form of the United Nations itself and its many ancillary organizations, such as UNESCO (for promoting culture), the World Health Organization (for controlling disease), and the International Labour Organization (for enhancing labour standards).

For managing the world economy, the Bretton Woods agreement of 1944 established a pair of far more powerful international financial institutions (IFIs). The International Monetary Fund (IMF) was to supervise how countries managed their exchange rates and to help them when their currency ran into difficulties because of poor trade figures or speculative pressures. The International Bank for Reconstruction and Development (World Bank) was to provide development capital to help countries rebuild their economies. When the U.S. Congress failed to ratify American adhesion to the International Trade Organization (ITO), which had been designed in 1947 to be the third pillar of the international financial structure, the ITO's complementary General Agreement on Tariffs and Trade (GATT) became by default the gradually consolidating site for resolving international trade problems.

Later on, other organizations firmed up as important building blocks in the architecture of global economic management. The Bank for International Settlements developed as a forum for central bankers to monitor each others' regulation of their national banking systems.[8] The Organization for Economic Co-operation and Development (OECD) emerged as the locus for researching global economic problems and negotiating a policy agenda for the industrialized economies' commercial needs. More technically specialized agencies grew up for the regulation of specific problems – for example, the World Intellectual Property Organization (WIPO). At the same time, mixed bodies developed in response to both private- and public-sector needs for common standards – the Codex Alimentarius, for instance, linked government representatives with scientists, farm organizations, and global agribusiness to work out criteria for acceptable levels of toxins and pesticides in food. And in the private sector, the growth of transnational law firms and international commercial arbitration started displacing state regulation of international commercial matters, particularly dispute settlement.

Approximately 300 of the 3,900 international organizations relate to economic matters.[9] Sovereign states have created these bodies by signing treaties or making agreements that commit them to observe the principles contained in their charters, to provide them financial support, and to supply personnel or delegates to their meetings. States sign and join, presumably having calculated that it is in their best interest to do so. They continue to belong for the same reason, accepting a contract that gives up a morsel of their freedom to manoeuvre in exchange for the benefit they expect to accrue from membership in the particular entity.

Small, economically desperate countries have suffered the most palpable loss of sovereignty through being obliged to reconstitute their regimes as a precondition for aid from the IMF or the World Bank, each of which requires recipients of their support to restructure their political economies on neoconservative lines. Large, but not major, countries such as Canada consider the derogation of power acceptable because they gain external influence – getting a voice in the policies of the multilateral organization in question – even if they lose internal sovereignty to the extent that they are bound by that organization's conventions. In the typical specialized institution, which is little more than a secretariat set up to manage the international community's response to a universal problem such as global warming or ozone-layer depletion, member states carefully prevent the emergence of any supranationality that might impinge on their powers.[10] In most areas, Canada considers its loss of sovereignty minimal, because the values enshrined in these organizations express the norms of liberal industrial societies.

Each international organization has its own constitution – that is, a set of generally written principles governing its operation. The WTO's establishes a strikingly uneven institutional structure with a legislature given to paralysis, a wiry administration, a powerful judiciary, and no coercive capacity of its own.

The WTO has no executive worthy of the name. Rather, it inherited from the GATT an informal 'green room' process in which a self-appointed group of dominant countries sets the agenda.[11] Its director is mandated to run not a policy-making body but a lean secretariat while supplying the organization with some leadership.

The WTO's legislative body – the ministerial conference – is a mammoth gathering of trade ministers from all member states, who convene biennially. Operating on the basis of consensus, it gives all the ministers the opportunity to address, and in principle resolve, their common problems. As the débâcle in the ministerial meeting in Seattle proved in 1999, it is for all intents and purposes an inoperable body unless a global consensus has been forged. Two years of fence-mending with Third World members generated enough consensus among the membership that the 2001 conclave at Doha in the Arab emirate of Qatar did yield an agreement on the agenda for the next round of rule-making negotiations. Between the biennial 'ministerials,' members participate in the WTO's ongoing decision-making business through its general council, its many policy committees (some of which facilitate the development of a negotiating agenda), and the intergovernmental activities of their diplomatic delegations, in which the Canadian trade embassy staff is constantly involved.

The WTO inherited from the GATT both a headquarters in Geneva and an effective secretariat of 500 officials, including a staff of legal experts who constitute the institution's historical memory and administrative energy. The secretariat administers over a dozen complex trade agreements and provides bureaucratic support for the dispute panels. A review body monitors member-states' conformity to their new obligations and provides a forum for developing the policy agenda. While this institutional structure has been criticized for being too elaborate for its small budget to support – a Mercedes Benz without gas, as the Canadian trade expert Sylvia Ostry famously described it[12] – it has potential for refinement as it matures. Although its executive is virtual, its legislative is ineffectual, and its administrative organs are stretched, the WTO's judicial mechanism is extraordinarily powerful, as we shall see shortly.[13]

Canada and WTO Governance

As the archetypal hegemonic state, the United States is the dominant global rule maker. Weak states that inhabit the periphery of the world power circle are rule takers, having to accommodate the rules imposed on them. That Canada exists in a zone between hegemon and periphery can be seen from its being partly rule maker and partly rule taker. However formless NAFTA may be, Canada participates in this fourth level of governance by its presence in its dispute settlement actions and in its sectoral working groups. As for its fifth level of state architecture, the WTO allows Ottawa to promote its interests by helping make the rules. Alongside the IMF, the World Bank, the United Nations, the OECD, UNESCO, the G7/8 Economic Summits, and a host of other functional institutions and in the light of NAFTA's institutional near-vacuum, the WTO offers another, but more significant global site where Canadian trade representatives can operate proactively.

Canada's voice in multilateral trade policy is greater than its actual size might lead one to expect. In 1990, for instance, half-way through the long Uruguay Round, Canada was the country that proposed creating a more authoritative institutional structure to strengthen the somewhat ineffectual GATT. This proposal, consistent with Canada's multilateralism, helped transform GATT into the much-more-substantial WTO, with its binding dispute settlement process.[14] In the current negotiations on services, Canadian officials retain their active role.

Even many of those who believe the WTO marks considerable progress over the GATT are highly critical of its distinct tendency to favour corporate interests at the expense of environmental and social concerns. To the extent, then, that the WTO can be considered part of Canada's fifth level of governance, Canada's continued participation is contested more vigorously than it is in any other international institution. And the more the WTO's raison d'être is questioned, the more likely its legitimacy is to atrophy. In the meantime, its members' continuing determination to support it will depend on its institutional qualities and the effects of its decisions.

In the jockeying for advantage that characterized states' behaviour in the post-Cold War era, the recognition of a commonality of interests on any issue was a significant accomplishment. The transformation in 1995 of the weak, consensus-driven GATT into a muscular membership organization with international legal personality and impressive power indicated that a shared *will* did exist – at least among those officials representing their governments[15] – to reorder the global economic system. How strongly that collective international desire persists will determine the WTO's effectiveness in the years ahead. The massing of protesting NGOs at the WTO's intended launch for its next, 'Millennial' Round of negotiations at its tempestuous biennial ministerial in 1999 in Seattle indicated how shallow and contested was that commitment outside the narrow confines of the transnational community of trade advocates. Support for the WTO varied from state to state, with Third World countries considerably more antagonistic to it than their industrialized partners who controlled its rule-making processes.

Canadians' will to participate in the WTO is divided between the unapologetic fervour of the trade community and the equally fervent opposition of many citizens active in environmental NGOs and trade unions. Prime Minister Chrétien's acceptance of trade liberalization was even more wholehearted than his slightly qualified endorsement of continental free trade. His own anti-protectionist beliefs were the natural product of his roots in the Quebec resource-producing hinterland, his mentorship in the 1960s under the Liberal finance minister, Mitchell Sharp, and the close connections he made during his years in major economic cabinet portfolios first with Montreal's, then with Calgary's, and finally with Toronto's business communities. When he became prime minister his policy environment was largely neoconservative. His trade officials in the Department of Foreign Affairs and International Trade were true believers in trade liberalization, with little sympathy for the social-democratic concerns about state sovereignty, environmental sustainability, or social program survival voiced by diplomats elsewhere in the department as well as by citizens' groups such as the Council of Canadians and its media-savvy gadfly, Maude Barlow. His ministers for international trade, first Roy

MacLaren, then Sergio Marchi, and ultimately Pierre Pettigrew, were staunch spokesmen for their department's orthodoxy that the more trade agreements signed by Ottawa, the better it would be for Canada. Even when Canada lost ruling after ruling before WTO dispute panels, Pettigrew insisted that Canada was benefiting because the rules were being clarified.

This belief that striking down government regulations was an essentially positive phenomenon was not widely shared outside the country's political, media, and business elites. Within labour unions, among environmentalists, throughout the cultural community, and in the many other sectors of civil society which looked to the state for support and had developed an unprecedented coalition in opposition to free trade in the mid-1980s, economic liberalization at the global level became just as objectionable as CUFTA and NAFTA. In 1997 and 1998, the anti–free trade coalition, which had almost prevailed in the 1988 federal election but then had failed to mobilize effectively against NAFTA during the next federal campaign in 1993, rallied its troops. Joining forces with counterparts in countries as disparate as France, Australia, and India, the Council of Canadians helped generate such vehement opposition to the Multilateral Agreement on Investment (MAI) being negotiated under the OECD's auspices, that this attempt to universalize the powerful rights contained in NAFTA's Chapter 11 for TNCs' global investments was aborted when the French government officially walked out of the talks.[16]

Encouraged by their successful campaign against the MAI, the antitrade liberalizers next targeted the WTO itself. While Canadians did not play the lead role in organizing the protests that helped stop the WTO's Seattle ministerial gathering in 1999 from launching the Millennial Round of global trade negotiations, their supportive presence suggests that the Canadian will to sustain the WTO is far from firm. Active participation by Canadian NGOs in subsequent protests at the regular meetings of the IMF and World Bank (Washington, April 2000, and Prague, September 2000), the Organization of American States (Windsor, Ontario, June 2000), and the Summit of the Americas (Quebec, April 2001) indicates that the government's commitment to neoconservative globalization remains hotly contested.

The WTO's 2001 ministerial meeting in Doha firmly kept international NGOs at a distance from the deliberations. But the attention they paid to the proceedings was an indicator of the WTO's importance as a new forum for global governance.