



A malign concept of sovereignty and a Canada-US customs union

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Introduction

Since 9/11, the Canadian government has ta

discusses “costs that include a loss of sovereignty.” See also Lincoln (A report to the House of Commons) for a reflection of the view of sovereignty as intrinsically valuable or visit the websites of various anti-trade groups.

My argument is that sovereignty, at least in the context of a customs union,<sup>1</sup> has no intrinsic value and that a malign concept of sovereignty, which views state power as a “good thing”, is often found behind the rhetoric. A clear, if perhaps unconscious, statement of this could be found on the website of the Council of Canadians during its campaign against the Multinational Agreement on Investment. “Over the years, our national sovereignty has been diminished first by the *Charter of Rights*, then the FTA and NAFTA. But they all pale beside the coming MAI.” (Emphasis added.)

This views limitations on state powers, over its citizens or externally, as a reduction of sovereignty and a “bad thing”. This statement is no longer on the Council’s website, perhaps because the Court seems less inclined to use the Charter to broaden negative rights, in Isaiah Berlin’s sense (Berlin, 1958), which limit state power of the state, than to create “positive” rights, which, increase state power – or sovereignty in the sense above – since the state must develop the information and coercive mechanisms to gather additional resources and the power and bureaucracy to distribute them. (Seeman et al.)

Interestingly, the institutional expressions of “sovereignty” most valued by Canadian nationalists trample “negative” rights of Canadians. Two examples are the insistence on maintaining marketing boards, which limit property rights and the right to free exchange without the approval of the state or its agencies, and the ability of government and its agencies to limit the speech to which Canadians are allowed legal access in Canada. For instance, Fox News is banned from cable channels though cable broadcasters believe a significant number of Canadians would view it if allowed by government. The Canadian culture industry appears to be horrified that closer trade relations with the United States might permit individual Canadians to make free choices in the area of speech.

One of the great achievements of the past several hundred years in enlightened nations is

any concern over the loss of “sovereignty”. Such treaties increase state power internally, so those with the taste for a strong state may be appeased. It appeals to those who believe resources should be distributed “democratically”, which essentially means to the most politically powerful actors such as Quebec’s potent dairy lobby and Canada’s richly funded culture industry. In any event, it is curious to argue closer US trade ties are an attack on “sovereignty” and then demand heroic labour and environmental treaties.

Thus, I believe “sovereignty” arguments are too often based on a malign version of sovereignty, which believes state power both over its citizens and external affairs is intrinsically “good” and any reduction of state power is a regrettable reduction of sovereignty. More appropriately viewed, sovereignty is held in trust by the state for the good of its citizens. Here sovereignty is a neutral concept. It has no intrinsic value other than whether its use or its ceding creates benefits for the population while respecting their civil liberties. The state’s ceding of sovereignty over speech and property rights to individuals was not intrinsically bad because it reduced state power, nor would it be a “bad thing” if trade agreements increased Canadians negative rights.

#### Sovereignty and a customs union

A customs union involves the creation of common tariffs/quotas and the elimination of rules of origin.<sup>3</sup> If sovereignty has no intrinsic value, as I have argued, and in some cases a negative value, the question about a customs union with the United States boils down to whether it benefits Canadians and expands or limits thei

This is, at best, a partial insurance policy, which hardly covers every possibility, but it is not without value. Goldfarb and Robson estimate that \$141 billion in Canadian exports and 390,000 jobs are vulnerable to border disruptions and \$70 billion in exports and 200,000 jobs are indirectly vulnerable. In my view, this captures only the immediate value of activity at risk. Much of Canada's high-technology, high value-added industries are focused on the US market. Their importance to the Canadian economy, due to the externalities they generate in research, knowledge base, technology transfer, and human capital, go well beyond the immediate numbers. Moreover, much capital would be destroyed if border slowdowns forced a break up of the integrated industrial structures on the Canadian side of the border. Canadian exports to the United States represent about a third of the Canadian economy but little more than two per cent of the US economy. The United States would not face great disruption in replacing the portion of those goods from the integrated manufacturing complex. Canada also runs a trade surplus with the United States that has been over a \$100 billion annually since 2000, enabling us to buy goods Canadians value from the rest of the world.

The impact on investment, the economy's ability to generate jobs and prosperity in the future, could be devastating. Few would invest in Canada just to serve the Canadian market. Threats to the border's openness would put a risk premium on Canadian investment. This would not only reduce investment, it would require higher than average profits in Canada in effect to pay the risk premium, suppressing wages.

US political dynamics are becoming protectionist. (See Gabel et al.) So far, this has bypassed Canada, but, as the United States' largest trading partner, Canada is also the largest out-sourcer of "US" jobs. Any terrorist act with a Canadian connection could easily change the benign US attitude towards Canada unless US officials were fully culpable, as they would be at least in the case of international goods shipments with an extended customs union perimeter. Without this, fears of terrorism could stoke US protectionism, particularly if Canadian leaders and media reacted with the same sort of vicious anti-Americanism that became strikingly evident long before the Iraq war.

The above discussion centres on the "insurance" benefits of a customs union. The "positive" economic benefits have been discussed at length elsewhere. These advantages would "(1) reduce the administrative and efficiency costs of the rules of origin system (ROO) currently in place under NAFTA; (2) promote simplification of border procedures for both NAFTA produced goods, and non-NAFTA imports; and (3) promote more liberal external trade with non-NA partners if a common trade policy meant 'harmonizing down' to the lowest common external barrier." (Harris, 2004. See also Taylor, who estimates a \$10 billion saving just for simplified border procedures.) In particular, the economic literature suggests that the elimination of ROO promises significant benefits, as well as increasing Canada's trade links to the rest of the world, another positive.

The Fraser Institute's 2004 survey of non-tariff, non-quota barriers between Canada and the United States reveals that about two-thirds of Canadian exporters face such barriers and four-fifths believe they will increase in 2005. A customs union has the potential to reduce such barriers. (McMahon and Curtis, forthcoming)

Costs

Even if protecting sovereignty is not an appropriate concern, other costs may accrue to Canadians in a customs union. The question



groups and, in order to benefit these groups, suppress, for example, Canadians' rights to sample the speech they wish and trade freely with each other and foreigners.

