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BOOK REVIEW

Getting to NAFTA: A Review of *Interpreting NAFTA* by Frederick W. Mayer

FREDERICK W. MAYER, *INTERPRETING NAFTA*, (Columbia University Press, 1998).

By
Andrea Kupfer Schneider*

I. INTRODUCTION

Interpreting NAFTA, written by Duke political science professor Frederick W. Mayer, is the story of the creation, negotiation and passage of NAFTA.¹ The perspective of a political science professor is highly useful for lawyers and legal academics in understanding NAFTA. Mayer places the legal details of the agreement in political and historical context which helps the reader to grasp the reasoning behind the agreement and to understand what benefits the parties expected from NAFTA.

Mayer's book is also useful as a case study applying a variety of political theories to a particular event. Both lawyers and academics can benefit from a greater and clearer understanding of political science theories. In the last decade, numerous calls have been made for legal academics to integrate these political theories into the study of international relations.² Mayer's book uses a multi-layered approach from a variety of political theories, making it useful reading for novice and expert alike. Mayer argues that in order to really understand NAFTA, it is necessary to view the history of the agreement through a

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1. See North American Free Trade Agreement, Dec. 17, 1992, 32 I.L.M. 289, [hereinafter NAFTA].

2. See, e.g., Kenneth Abbott, *Modern International Relations Theory: A Prospectus for International Lawyers*, 14 YALE J. INT'L L. 335 (1989); Anne-Marie Slaughter, *International Law and International Relations Theory: A Dual Agenda*, 87 AM J. INT'L L. 205 (1993); Anne-Marie Slaughter, Andrew S. Tulumello and Stepan Wood, *International Law and International Relations Theory: A New Generation of Interdisciplinary Scholarship*, 92 AM J. INT'L L. 367 (1998) (noting the increasing number of times that international lawyers and political scientists have drawn on each other's work).

variety of lenses. Any single theory or approach would only provide a small slice of the picture.

The book is organized into three primary sections. The first section of the book looks at the decision to create the NAFTA agreement. The second part examines the actual substance of the NAFTA agreement and side agreements in labor and environment. Finally, the book examines the passage of NAFTA and the related political battles. Mayer's unusual insight into NAFTA is due in part to the fact that he spent a yearlong fellowship in Senator Bill Bradley's office at the helm of foreign policy matters. Mayer prolonged this term of service in order to see through the passage of NAFTA.

Mayer lays out his assumptions about political analysis very early on in the book. He argues that realist political theory—which focuses primarily on states as rational actors in international relations—would be insufficient to truly understand NAFTA. By focusing solely on states, realist theory overlooks the importance of domestic interest groups and individual political leadership in creating NAFTA. Furthermore, by relying solely on rational choice, realist theory ignores the impact of organizational and institutional rules on the bargaining and structure of NAFTA.

Mayer brings in regime theory, two-level bargaining theory, and the role of symbolism in order to analyze NAFTA. The use of all of these theories makes this book an important contribution in two ways. First, we clearly have a more nuanced and sophisticated understanding of NAFTA by examining it in a variety of contexts. Regime theory brings in the institutional component of decision-making. It also explains why states cooperate. Two-level and three-level bargaining theories look beyond the state as primary actor in the international arena to address the impact of domestic constituencies. Symbolic theories help to explain the impact of NAFTA beyond its narrow trade rules and why NAFTA ratification became such a battle.

Secondly, Mayer convincingly uses NAFTA as a case study to demonstrate why this multi-level approach is necessary in political analysis. When the book is finished, the reader has an appreciation of all of the theories covered by Mayer. More compellingly, one feels that without any of these theories, part of the true story of NAFTA would be missing.

II.

THEORETICAL CONSTRUCT

Mayer's framework in the book is twofold. First, he examines the level at which political analysis should unfold: in other words, should we focus on states as the core actors in this drama or should we focus on the domestic process, examining groups and individuals?³ Mayer convincingly argues that the story of NAFTA is incomplete and an analysis would be only partial if we used the traditional, state-centered focus of political analysis. Second, he asks whether "political processes, at whatever level of analysis, can be understood

3. FREDERICK W. MAYER, *INTERPRETING NAFTA* 7 (1998).

best as rational choices, institutional processes, or responses to symbolic constructions?"⁴ Mayer demonstrates that all of these approaches give different insights on the NAFTA history and need to be used simultaneously in the field of political science. In the introduction to his political framework, he outlines the traditional theories used to analyze international events as follows:⁵

LEVEL OF ANALYSIS/MODE OF POLITICS	RATIONAL CHOICE	INSTITUTIONAL PROCESS	SYMBOLIC RESPONSE
INTERNATIONAL	Realism	Regime Theory	Epistemic Communities
DOMESTIC (GROUP)	Political Economy	Organizational Behavior	Cultural Anthropology
INDIVIDUAL	Public Choice and Institutional Economics	Cognitive Psychology	Constructivism, Symbolic Interactionism

As stated earlier, the variety of approaches and theories makes this book an excellent primer on political theories for the non-political scientist. Most political scientists have written on one or two of the approaches described by Mayer. Similarly, when legal academics have used political science theories, they have focused on one or two such theories.

Mayer examines three levels of analysis. His adoption and expansion of the two-level bargaining theory⁶ is a unique methodology. Two-level bargaining theory explains that when examining international negotiations, it is important to also examine the negotiations between domestic groups and the government. Traditional international relations theory assumes the state is the primary actor, and does not look within the state to assess and examine domestic actors. Two-level bargaining theory has shown that a fuller examination of domestic actors is needed. Mayer takes this concept further to argue that actually a three-level analysis is necessary. He adds in the factor of individual actors as potentially impacting international relations.

Looking across his grid, it is also necessary to understand the modes of politics to which Mayer refers. Rational choice assumes that actors have stable preferences, consider their alternatives, predict and evaluate the consequences of their choices, and choose a strategy with the highest value.⁷ Rational choice theory has been adopted in international relations theory by realist theorists, those examining the state as the primary actor.⁸ Realists would focus on the story of NAFTA as an interaction between Mexico, Canada, and the U.S., using

4. *Id.* at 7.

5. *Id.* at 13.

6. See Robert D. Putnam, *Diplomacy and Domestic Politics: The Logic of Two-Level Games*, 42 INT'L ORG. 427 (1988); DOUBLE-EDGED DIPLOMACY (Peter B. Evans et al. eds., 1993) (focusing on the problems of international bargaining and domestic politics as two-level games).

7. MAYER, *supra* note 3, at 17.

8. For more on applying realism to international trade, see generally ROBERT GILPIN, U.S. POWER AND THE MULTINATIONAL CORPORATION: THE POLITICAL ECONOMY OF FOREIGN DIRECT

rational choice to explain each country's decisions—to enter the negotiations and to push for certain elements in the text of the agreement.

Institutional process assumes that the behavior of actors is determined by the institutions in which they operate. These political processes and the interactions among them determine outcomes. Regime theory in international relations uses "weak" institutional theory to explain state behavior. Institutions restrict state behavior and facilitate cooperation where it might not otherwise occur.⁹ At the domestic level, and familiar to business school graduates, the theory of organizational behavior operates on the similar premise that institutions affect the choices of actors within them.

The third approach to the study of politics that Mayer outlines is a theory of symbolic response. Political actors make their decisions based on the language, ideas, and narratives of the political events surrounding them. This symbolic construction affects the perceived value and consequences of any decision. This theory, deriving from anthropology and sociology,¹⁰ has only recently been applied in political science and international relations. Its application here to NAFTA is intriguing and clearly outside the more traditional mode of political analysis.

Mayer points out that despite intellectual warfare among different schools of thought, these approaches are complementary rather than competing. The question is not which theory is correct but which one best illuminates actual historical events surrounding NAFTA.

As previously mentioned, Mayer divides the book into three sections in order to analyze NAFTA. The first covers the decision to negotiate NAFTA, the second discusses the negotiations over the substance of NAFTA, and the final section reviews the passage of NAFTA. For each section, Mayer describes the historical events first and then applies one or more of the political theories to the events in order to explain them.

III.

GETTING TO THE TABLE

A. *Proposing NAFTA*

Mexico, the United States and Canada announced their decision to negotiate a free trade agreement in 1990. As Mayer points out, just a year earlier, few advocates of free trade would have predicted such a possibility. Mexico spent much of the 1980's in financial crisis. Canada was still dealing with the political ramifications of the hugely unpopular Canada-U.S. Free Trade Agreement

INVESTMENT (1975), and HANS J. MORGENTHAU, *POLITICS AMONG NATIONS: THE STRUGGLE FOR POWER AND PEACE* (5th ed. 1973).

9. See, e.g., *INTERNATIONAL REGIMES* (Stephen D. Krasner ed., 1983); Friedrich Kratochwil & John G. Ruggie, *International Organization: A State of the Art on an Art of the State*, 40 *INT'L ORG.* 753 (1986).

10. MAYER, *supra* note 3, at 20; JEROME S. BRUNER, *ACTS OF MEANING* (1990); CLIFFORD GEERTZ, *THE INTERPRETATION OF CULTURES* (1973).

(CUFTA) completed in 1988.¹¹ And U.S. trade efforts were focused on completing the Uruguay Round of the General Agreement on Tariffs and Trade (GATT).¹² Yet, Mexican leader Carlos Salinas asked the U.S. to negotiate a free trade agreement in February 1990. The U.S. accepted. Canada, after hesitating for several months, decided to join the negotiations as well.

Mayer poses three questions for analysis: "Why did Mexico, with its history of closeted trade policy and cool relations with the United States, seek a free trade agreement with a neighbor it had so long kept at a distance? Why did the United States decide to embrace the overture from the southern neighbor it had so long ignored? Why did Canada, mired in recession and still recoiling from the political aftermath of CUFTA, first decide to stay out and then change its mind?"¹³

Mayer argues that realist theory explains some of these actions. Mexico decided to push for a free trade agreement in order to become more competitive economically and to help attract foreign capital. The United States agreed to negotiate because Mexican stability is important, increased trade with Mexico is a benefit, and, in the face of the European Union, a regional agreement would help the U.S. Canada joined because it decided that being part of an agreement was better than watching it from the sidelines.

But while realist theory can explain this behavior in a general sense, it fails to answer some important puzzles. For example, why did Mexico wait to negotiate until 1990, when it would have been in its economic interest to do so earlier? Mexico clearly would have benefited from open markets in the 1980's. Only the change in domestic politics and domestic leadership can really explain this shift. Why did the opening of Eastern Europe affect Salinas' thinking about free trade? Mayer notes that the fall of the Berlin Wall seemed to motivate Salinas toward a free trade agreement with the U.S. Yet, economically, this event would have little effect on Mexico. Only an understanding of symbolic politics can explain how Salinas worried that world attention would turn from the economic development of Latin America to that of Eastern Europe without some dramatic action like a free trade agreement. Finally, why did Canada decide in March 1990 not to participate in the talks, and then change its position by August 1990? Again, one needs to examine the domestic politics of Canada to adequately explain this decision.

Most importantly, realism fails to explain why negotiating is necessary at all. Classical economic theory would argue that opening up markets is in a country's national interest regardless of whether its neighbors do so.¹⁴ In other words, Mexico, the U.S. and Canada should each want to open their markets to

11. The Canada-U.S. Free Trade Agreement, Jan. 2, 1988, 27 I.L.M. 281 (1988).

12. General Agreement on Trade and Tariffs, *opened for signature* Oct. 30, 1947, 61 Stat. 43, 55 U.N.T.S. 187.

13. MAYER, *supra* note 3, at 51.

14. See ADAM SMITH, AN INQUIRY INTO THE NATURE AND CAUSES OF THE WEALTH OF NATIONS (1776); see also Frederick M. Abbott, *Trade and Democratic Values*, 1 MINN. J. GLOBAL TRADE 9, 17-18 (1992) (explaining Adam Smith's and David Riccardo's economic theories in favor of a liberal trading system).

their neighbors with or without a free trade agreement. If state actors were rational at all times, then each state should do this immediately. States, however, do not do this. Negotiation, exchanges, and agreements are necessary.

Regime theory provides answers to some of these questions through its different focus on state interaction. While regime theory, like realism, still relies on the state as the primary actor and assumes that the state will act rationally, regime theory posits that international organizations, rules, and norms can affect the behavior of states. Regime theory argues that international organizations and institutions facilitate cooperation between states by reducing the risks of cooperation while increasing the benefits. International organizations can lower transaction costs and better exchange information among members.¹⁵ It reduces the risks of cooperation by dealing with the free-rider problem and assuring participants that others will not exploit their respective cooperative behavior.¹⁶

Mayer uses regime theory to explain why the countries chose to negotiate NAFTA in three ways. First, the countries themselves were using regime theory in their thinking—they were deciding to create a new regime. This regime would ensure cooperative behavior in reducing tariffs, lower the transaction costs of doing this, and provide some mechanisms of enforcement. Clearly, the assumptions behind regime theory as to why states cooperate were being acted on as these states decided to create a regime. Second, as Mexico tied itself increasingly to the U.S. in the 1980's through a variety of financial and trade regimes, the next logical step was a free trade agreement. Mexico became increasingly comfortable with smaller regimes and then was willing to enter into the more comprehensive free trade regime. Finally, the choice itself of a free trade agreement can be explained under regime theory. Under the existing international regimes, a free trade agreement was the logical goal of cooperation. Given that CUFTA already existed and that free trade agreements are defined by the rules of GATT, the free trade agreement made sense in terms of which regime the states would choose.

Mayer uses a third lens to examine the remaining questions of timing. This third lens, international symbolic theory, is not commonly used in international analyses and is perhaps the most innovative part of Mayer's book. He outlines four potential roles for symbolic theories in international relations. First, symbols derive from and serve national interests.¹⁷ Symbols are the ideas that help encourage collective action. In this respect, symbols are much like regimes in that they reduce transaction costs and uncertainty and provide focal points for coordination. Second, symbols can establish beliefs about cause and effect. Because it is so hard to really predict the outcome of any policy, symbolic systems operate through a shared belief in what the consequences will be.

Third, symbols can help frame issues and make certain consequences more salient than others. Mayer uses the example of how U.S. intervention in Bosnia

15. See Kenneth W. Abbott & Duncan Snidal, *Why States Act Through Formal International Organizations*, 42 J. CONF. RES. 3 (1998).

16. *Id.* at 13.

17. MAYER, *supra* note 3, at 58.

was framed to the public. Was Bosnia another Holocaust with vast human rights violations or was Bosnia another Vietnam and hopeless civil war? Depending on your symbolic construct, your vision of outside intervention could change dramatically. Mayer's analogy could also be updated to apply to U.S. intervention in Kosovo with the same debate and similar metaphors.

A final role for symbols is the determination of national interests themselves. Rather than facilitating a choice between interests, international symbolic constructs can actually form national interests.

As Mayer notes, these symbolic constructs can work together and, in the case of NAFTA, do just that. The new Mexican leadership became part of a community for whom a liberal trade ideology was a focal point for cooperation. This same leadership defined causal beliefs (that trade would lead to growth), framed the issue so that economic efficiency became the salient consequence, and established national preferences for free trade over protectionism.

B. *The Fast Track Battle*

After examining theories at the international level to analyze the choice to negotiate, Mayer turns to the battle over fast track authority in the United States. These events, as he explains, require domestic level political theories to explain what happened.

President Bush was originally given fast track authority in 1988 to negotiate GATT. This authority was to last for three years and to be extendable for two more years unless vetoed by either house of Congress. By the time President Bush asked for the extension of fast track authority to negotiate NAFTA, in March 1991, major opposition from both labor and environmental groups had rallied to oppose the extension. Only with some serious lobbying and compromises was Bush able to rally Congress to grant fast track authority in May 1991. Most importantly, in terms of explaining the final outcome of the NAFTA agreement, President Bush promised to include both labor and environmental issues in NAFTA.

Mayer's analysis is interesting in two ways. First, Mayer focuses on the interaction between domestic interest groups. The mainstream environmental groups held a surprising amount of leverage, because these groups could go either way on fast track authority. In this analysis, Mayer uses rational choice theories operating at the domestic level.¹⁸ Second, Mayer focuses on the importance of rules, such as fast track authority, and the timing of these institutional rules. Here, he is also at the domestic level of analysis, using institutional process theories to explain the operation of fast track authority.

18. Public choice theory is helpful in understanding the impact of interest groups in trade. For more information on public choice theory, see DANIEL A. FARBER & PHILIP P. FRICKEY, *LAW AND PUBLIC CHOICE* (1991); Charles K. Rowley & William Thorbecke, *The Role of the Congress and the Executive in U.S. Trade Policy Determination: A Public Choice Analysis* in NATIONAL CONSTITUTIONS AND INTERNATIONAL ECONOMIC LAW (Meinhard Hilf & Ernst-Ulrich Petersmann eds., 1993); Paul B. Stephan, *Barbarians Inside the Gate: Public Choice Theory and International Economic Law*, 10 AM. U.J. INT'L L. & POL'Y 745 (1995).

Mayer examines three important domestic interest groups. He divides these groups into those business interests that would benefit through NAFTA, those groups—such as labor, smaller environmental organizations, and other highly protected sectors of the economy—that would lose from the agreement, and a third category who would not be strongly affected but might gain by adding issues to NAFTA. This third category, primarily made up of mainstream environmental groups, was interested in environmental issues on the U.S.-Mexico border. They hoped to establish a precedent for how environmental issues are handled in trade. This side issue of environment, Mayer demonstrates, became the key to passage of fast track authority. By agreeing to include environmental issues, the administration divided the environmental lobby between mainstream groups who wanted this linkage examined and smaller groups who opposed NAFTA at all costs. These groups, Mayer notes, all acted rationally to protect their interests and to gain as much as possible from the fast track negotiations.

Mayer also focuses on the importance of rules, such as fast track authority, which deal with the multiparty prisoners' dilemma game faced by Congress.¹⁹ While most members of Congress preferred a free trade agreement to none, each wanted it to benefit their respective constituents—through agricultural subsidies and labor protection, for example. Fast track authority helps representatives vis-a-vis their own constituents because the representatives' hands are tied once the agreement is negotiated.²⁰ The rules in 1988 provided for a possible extension of fast track authority. Mayer notes that the battle in 1991 was very different by virtue of the fact that this was a battle for an extension rather than a completely new grant of fast track authority. The extension vote in 1991 was only an up or down vote with no amendments or filibustering permitted. Furthermore, NAFTA was linked to GATT and could not be extracted. This battle, of course, only foreshadowed the battle that President Clinton faced in 1996 over fast track authority.²¹ The 1991 battle over fast track authority also delayed the start of the NAFTA negotiations by almost a year—a delay that became important in terms of the ratification battle at the other end.²²

19. MAYER, *supra* note 3 at 97; THOMAS SCHELLING, *THE STRATEGY OF CONFLICT* (1960).

20. For a comprehensive article on fast track rules and NAFTA, see Cherie O'Neal Taylor, *Fast Track, Trade Policy, and Free Trade Agreements: Why the NAFTA Turned Into a Battle*, 28 *GW J. INTL. L. & ECON.* 1 (1994).

21. See *The Fast-Track Fight*, *WASH. POST*, Sept. 12, 1997, at A24; Peter Baker & Paul Blustein, *Clinton Searches for Middle on 'Fast Track'*, *WASH. POST*, Sept. 11, 1997, at A8; *'Fast Track' is Derailed*, *N. Y. TIMES*, Nov. 11, 1997 at A26.

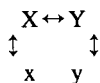
22. Mayer consistently notes events which caused delays in talks and ratification, such as fast track authority and Canada's delay in participation. While each delay alone did not cause NAFTA to spill into the Clinton Administration, Mayer makes a compelling case showing how each delay did contribute to the spillover and, therefore, caused a more protracted fight.

IV.

GETTING TO AN AGREEMENT

A. *The NAFTA Agreement*

In the next chapter, Mayer turns to the actual terms of the NAFTA agreement and analyzes exactly why NAFTA emerged in its final form. Mayer primarily uses two-level bargaining theory to explain particular terms, including certain industry exemptions and protections. Two-level bargaining theory argues that to properly understand international negotiations, one must be aware of the negotiations existing at the domestic level and then how these negotiations interact at the international level.²³ In other words, in negotiations between countries X and Y with their domestic constituencies represented by x and y, there are three negotiations going on.



Constituencies x negotiate with government X in order to set their negotiation range. Constituencies y negotiate with government Y in order to set their negotiation range. Then governments X and Y must negotiate on the basis of the range they have already negotiated domestically. As Mayer shows using intricate graphs in his text, the bargaining range for any international agreement is significantly narrowed by the domestic-level negotiations prior to any international negotiation. Others have shown similar effects in case studies,²⁴ and Mayer demonstrates compellingly the importance of such an analysis for NAFTA. As Mayer puts it, "[w]e can better understand national bargaining behavior by recognizing that national negotiator preferences derive partly from a calculus of national (primarily economic) costs and benefits and partly from a calculus of political costs and benefits imposed in domestic bargaining."²⁵ Negotiators must consider not only good policy but also what is good politics.²⁶

Mayer uses several examples to prove his point in NAFTA. He argues that the ongoing protection of the Mexican oil industry was not implemented because Mexicans believed that it made economic sense. In fact, the oil industry was inefficient and imposed costs on the rest of the Mexican economy. However, the political costs of opening the Mexican oil industry were so great that negotiators could only agree to very limited reforms. Domestic political costs of opening industries also acted in similar ways in Canadian agriculture and U.S. shipping.

Another example of two-level bargaining is the negotiation over the rules of origin for automobiles. By examining the preferences of each of the Big Three auto-makers, the auto parts industry in the U.S., and the United Auto

23. Evans et al., *supra* note 6.

24. See case examples in Evans et al. *supra* note 6.

25. MAYER, *supra* note 3, at 147.

26. *Id.*

Workers, Mayer shows how the zone of agreement was narrowed domestically before the U.S. even sat down with Canada and Mexico. The domestic negotiation between each of the automobile companies and the auto parts industry is what really determined the U.S. position, rather than any economic calculation of what would be best for the U.S. consumer.

Two-level bargaining theory also explains trade-offs in agricultural concessions between the U.S. and Mexico. First, economic efficiency would argue against any type of protection. "The negotiators should fall all over each other in a race to give away protection as fast as possible."²⁷ But, of course, this did not happen. Canada, under extreme domestic pressure, did not even participate in this part of the agreement. The problem domestically is that while market openings may benefit consumers in general, they will hurt certain groups in particular. Furthermore, these groups may have powerful lobbies behind them. Mayer demonstrates that the U.S. and Mexico were able to trade concessions in the Mexican corn market for U.S. concessions in fruits and vegetables. For the national negotiators, the benefits gained by one concession can be used to offset the political costs of granting a different concession. For example, U.S. agricultural concessions in NAFTA were unpopular in Florida, California and Texas, where much produce is grown. The benefits of opening the Mexican corn market, however, were much appreciated by U.S. export interests, grain farmers and large grain companies. Issue linkage became particularly helpful in managing the domestic constraints placed on national negotiators.²⁸

B. *The Side Agreements*

The unintended second part of the NAFTA negotiations occurred after President Clinton took office in 1993. While all three parties maintained that the NAFTA text itself could not be changed, candidate Clinton had promised and then needed to deliver side agreements in the areas of labor and environment. The side agreements were clearly motivated by domestic-level politics and had little to do with the international arena. In the race against Bush, Clinton had promised that NAFTA would do more to protect labor and the environment. Once it looked like Clinton might win the election, environmental groups were more than happy to wait for the new administration to give them even more than what Bush had promised in order to get fast track authority. It remained unlikely, however, that any side agreement would shift labor from its anti-NAFTA position. An analysis of domestic political maneuvering in the United States is necessary to understand the side agreements.

Beyond recognizing domestic political maneuvering in the U.S. as responsible for side agreements, Mayer argues that the two-level bargaining game needs to be deepened and expanded in order to understand the substance of the side agreements. The analysis must be deepened so that a third level of analysis

27. *Id.* at 148.

28. For an analysis of the trade-offs in the 1996 fast track debate, see Helen Dewar, *Florida Torn Over 'Fast Track' Trade-Offs: Agricultural and Political Pressures Keep State Straddling the Fence on Global Commerce*, WASH. POST, Nov. 29, 1997 at A1.

can be applied to different domestic groups, and expanded, allowing the context of the upcoming NAFTA ratification battle to be added.

Both the labor and environmental side agreements established commissions to oversee the enforcement of national laws, rather than regional or international laws.²⁹ Each commission is staffed by independent staffers rather than by three separate national staffs. The commissions have the power to investigate allegations of non-enforcement. Governments, individuals, or the commission itself may lodge these complaints.³⁰ If the commission finds a pattern of non-enforcement of national laws, a national government may request the establishment of an arbitration panel. If the panel concurs with the commission, fines may be imposed of up to \$20 million. If these fines are not paid, the complaining country may impose trade sanctions.

While the environmental agreement was the model, the labor agreement is far weaker in terms of scope than the environmental agreement. The labor agreement covers worker health and safety, minimum wage, and child labor laws. It does not extend to industrial relations law. Furthermore, Canada opted out of the trade sanctions part of enforcement and instead offered that any panel finding could be enforced in the domestic courts. The Canadian option is actually more effective in terms of compliance and cost far less in terms of domestic political costs.

Mayer explains the differences between the agreements as well as Canada's enforcement choice using a three-level analysis. First, in the battle over the strength of the trade sanctions, much like in the 1991 fast track battle, mainstream environmental groups played an important role. The result of the agreements is that there are trade sanctions available as the final punishment for not enforcing laws, but there are numerous procedural hurdles prior to their implementation. Mayer notes that at the individual level, members of the environmental groups were more in favor of sanctions than was the leadership of these organizations. Therefore, the initial negotiation was between the members and the leadership. The grassroots membership of the environmental organizations, rather than the leadership, pushed for any agreement to have teeth.

The next negotiation occurred at the domestic level between the environmental groups and the business community, which was clearly less interested in sanctions. In this negotiation, the business community pushed for procedural hurdles but was forced to concede on sanctions. The alternative would have been to stop supporting NAFTA, an unlikely scenario. Finally, at the international level, U.S. negotiators had little room to negotiate given their domestic

29. See Rex J. Zedalis, *Claims by Individuals in International Economic Law: NAFTA Developments*, 7 *AM. REV. INT'L ARB.* 115 (1996); Kal Raustiala, *International "Enforcement of Enforcement" Under the North American Agreement on Environmental Cooperation*, 36 *VA. J. INT'L L.* 721 (1996).

30. See Andrea K. Schneider, *Democracy and Dispute Resolution: Individual Rights in International Trade Organizations*, 19 *U. PA. J. INT'L. ECON. L.* 587 (1998) (discussing the importance of standing for individuals).

constraints. In the end, Mexico was able to move partially toward enforcement while Canada was not.³¹

At the same time, a three-level analysis helps explain the comparative weakness of the labor agreement. In the U.S., local union members were completely opposed to NAFTA and any side agreements. Union leadership had little room to maneuver in national negotiations because of their own constraints. Knowing that it was unlikely that labor would support NAFTA anyway, business and the U.S. government had little incentive to bargain at the domestic level. Rather, the primary labor negotiation occurred with Mexico at the international level. Of course, the domestic constraints facing Mexico are clearly reflected here as well. Mexican business interests were far more concerned about the labor agreement than the environmental agreement. Furthermore, Mexican unions were not interested in opening issues of workplace governance up to international scrutiny.

Mayer concludes this section by reminding his readers that all of these U.S. domestic negotiations exist under the shadow of the upcoming ratification vote. Each concession was made with an eye to whose votes were being affected or what political cover was being provided.

V.

GETTING NAFTA PASSED

The final part of the story is the ratification of NAFTA. Mayer spends a whole chapter outlining the opposition to NAFTA and the interesting strategic behavior that began to operate once the negotiations were completed. U.S. opposition to NAFTA centered on the issues of jobs, environment, health and safety, immigration, drug smuggling and human rights in Mexico. One should note that virtually all opposition to NAFTA had to do with Mexico rather than the continuation of the free trade agreement with Canada. On the issue of jobs, studies showed that the impact of NAFTA would be very small, regardless of whether it was a negative or positive impact. At the far extreme of studies, the AFL-CIO estimated that there would be a loss of 550,000 jobs over 10 years. As Mayer notes, since the U.S. creates over 200,000 jobs in a good month, even this doomsday prediction would have a very small net effect.³² Effects on the environment and other issues were also predicted to be as small.

Nonetheless, a variety of groups lined up to oppose NAFTA. First, the unions were clearly going to oppose NAFTA. They had been opposed to the extension of fast track authority necessary to negotiate NAFTA and the substance of the agreement did not change their mind. The only element holding some unions back from a full-fledged anti-NAFTA campaign was the fear of damaging a Democratic president so early in his term. Second, some grassroots organizations coalesced under the Citizen's Trade Campaign that had members

31. For placing this dispute resolution regime in context, see Andrea K. Schneider, *Getting Along: The Evolution of Dispute Resolution Regimes in International Trade Organizations*, 20 MICH. J. INT'L L. 697 (1999).

32. MAYER, *supra* note 3, at 220-21.

from unions, some environmental groups, and even Jesse Jackson's National Rainbow Coalition. These first two groups placed pressure on Democrats in the Senate to oppose NAFTA. From other parts of the political spectrum, Ross Perot had been opposed to NAFTA during the presidential campaign³³ and continued to use his organization of United We Stand to oppose NAFTA. Pat Buchanan led the Republican Right in a conservative attack on NAFTA. In favor of the agreement was the business community, a rather circumspect Mexican lobby, some in the administration and some on the hill.³⁴

Mayer argues that the extent of the grassroots opposition to NAFTA cannot be understood through traditional rational choice theory. After all, an individual looking at NAFTA could rationally conclude that either (a) the impact is going to be very small or (b) anything that I do individually is going to be lost in the broader scheme of political action. Therefore, it would be rational to do nothing in the case of NAFTA. In fact, it would be rational to free ride on the actions of others.³⁵ Yet the fact is that many people did take individual action.

This can be explained theoretically in several ways. The first theory of ideological consumption is based on the idea that people derive some satisfaction from taking action, even writing a letter, because it makes them feel good to participate. This explains why people vote, knowing that one vote individually will not determine an election.³⁶

A second theory argues that ignorance of politics is rational.

In general, it is irrational to be politically well informed because the low returns to date simply do not justify their cost in time and other scarce resources. Therefore, many voters do not bother to discover their true views before voting, and most citizens are not well enough informed to influence directly the formulation of those policies that affect them.³⁷

According to this theory, any information that citizens actually do acquire is for the purpose of entertainment. Some people like to be able to appear knowledgeable at cocktail parties; others enjoy arguing. With this backdrop, Mayer argues that individuals—as free riders, for ideological consumption, as rational ignorant actors, and looking for entertainment—rely on others to inform them about NAFTA. What made NAFTA so compelling, as opposed to dozens of other similar and boring trade agreements, was the symbolic constructions used in telling the NAFTA story.

33. His "giant sucking sound" quote became emblematic of the fears of jobs going over the border. *Id.* at 229.

34. One of Mayer's more interesting stories is the ongoing tug of war in the Clinton administration between NAFTA and the health care program. Health care proponents worried that a NAFTA battle would delay the introduction of the health care proposal on the Hill and force the administration to use up its goodwill. One wonders what would have happened had the Clinton administration decided to forego NAFTA and put the health care reform program first on its agenda for the new administration.

35. MANCUR OLSON, *THE LOGIC OF COLLECTIVE ACTION* (1965); MAYER, *supra* note 3, at 259.

36. MAYER, *supra* note 3, at 259.

37. ANTHONY DOWNS, *AN ECONOMIC THEORY OF DEMOCRACY* (1957).

Mayer first makes the argument that political science ought to take account of the sociological and psychological perspective on events. Theorists argue that people use symbols and narratives to make sense of events. As Mayer writes, "[a] narrative theory of politics . . . would suggest that our understandings of politics are mediated by symbols, that we have a predilection for symbols organized into simple dramatic narratives, that we particularly like stories that confirm our worldviews, resolve psychological conflicts, and maintain our sense of personal and collective identity."³⁸ Therefore, given the juxtaposition of the theories above explaining why individuals will look to others to provide information and understanding that individuals will look for persuasive narratives, it is easier to understand the groundswell of opposition to NAFTA.

Mayer next outlines the stories told by each of the opposition groups. To the labor unions, NAFTA stood for everything that went wrong in the 1980's under Reagan, and all of the potential problems in the future. For each of the opposition groups, NAFTA stood for far more than the agreement itself. It was toxic waste, the sucking sound of jobs gone to Mexico, and foreign contamination. In each story, it was a perennial tale of the little guy against big business, of a good America led astray by greed, big government, and foreigners.

In fact, understanding the symbolism of NAFTA was crucial for the pro-NAFTA campaign. These anti-NAFTA stories needed to be changed if NAFTA was going to be passed. In the last chapter of the book, Mayer tells the story of the strategy used to get NAFTA passed. The story changed from a U.S. versus Mexico battle to a battle of North America versus Europe and Japan. Second, NAFTA forces argued that NAFTA was a historic opportunity to strengthen our neighbor. Long-term foreign policy needed to override short-term national interests. Finally, NAFTA was portrayed as a test of American character. Are we for change or are we afraid of the future?

Other factors also played into NAFTA's passage. The business community was strongly behind NAFTA. The few industries that would be directly harmed by NAFTA—some glass manufacturers and ceramic tile makers, for example—were strongly outweighed by the segments of business in favor of NAFTA. The Big Three automakers, banks, insurance companies, pharmaceuticals, major agribusiness, and all of the business associations were in favor of NAFTA. Second, collateral attacks from Buchanan and Perot became less feared as time passed. The Gore-Perot debate on NAFTA is often seen as a turning point in the campaign for NAFTA. In an analysis of my favorite NAFTA battle event, Mayer points out that the debate between Perot and Gore may not have changed very many minds on the substance of NAFTA. It did, however, demonstrate to Senators how to respond to Perot's attacks and give these Senators enough confidence to oppose Perot's organization.³⁹

38. MAYER, *supra* note 3, at 265. See also DEBORAH TANNEN, *THAT'S NOT WHAT I MEANT*, 74-92 (1986) (discussing the importance of framing). For more on partisan perceptions, see ROGER FISHER et al., *BEYOND MACHIAVELLI*, 19-32 (1994).

39. MAYER, *supra* note 3, at 331.

Interpreting NAFTA is a book well worth reading and using in a trade law class. Mayer makes a real contribution to the political and legal literature in several ways. First, the juxtaposition of events—and then theory—applied in depth to one agreement is remarkable. The book is structured so that Mayer alternates between story telling and analysis. It is neither straight history nor dry theory but a rich interplay between the two. Most examples used in articles are too brief to fully demonstrate the importance and difference between the theories when applied to the facts. In the space of a book, Mayer has the opportunity to provide facts and amusing inside knowledge and still spend time applying theory to the story of NAFTA.

His primary contribution to political analysis is a convincing argument, using NAFTA as the example, that one level of analysis or one view of political theory is insufficient. He demonstrates that typical international relations approaches are often too state-centered and too rational choice oriented to fully be able to explain and understand the whole story. His addition of a third level of analysis is relatively new to political science and persuasively demonstrated in the chapter on side agreements. His use of symbolic politics and narratives is also relatively new to political analysis and virtually unused in international relations approaches. They are both useful and interesting contributions. In the end, Mayer's book is about common sense. For complex events, such as the history of NAFTA, a combination of theories and levels of analyses will better equip scholars and students to fully understand the events. Above all, Mayer documents the events leading to the passage of NAFTA in a clear and readable manner.