

# LAW AND CONTEMPORARY PROBLEMS

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## INTRODUCTION

The distribution of international economic power has changed substantially in recent decades, so that economic integration continues to be a topic of considerable practical and academic interest. The European Economic Community provides an example of the benefits obtainable from successful integration. Realignment of national economic power and recognition of the real world consequences of successful integration have produced a disquiet in many nations. Not unexpectedly, there is a renewed and growing interest in policy devices to both effect and counter further power changes.

Among the catalysts for realignment of economic power are: (i) negotiated tariff barrier reductions and the creation of nontariff barriers to trade; (ii) economic integration; (iii) differential rates of national growth; and (iv) recognition of the economic power embodied in the control over natural resources. These are also candidates for policy decisions intended to alter the international distribution of economic power. Economic integration has been classified at different planes of coordination—the free trade area, the customs union, the common market and the economic union. Free trade areas entail only the elimination of tariffs between partners; customs unions are, essentially, free trade areas with an external tariff common to all the partners; common markets are customs unions with unrestrained labor and capital mobility between participating nations; and economic unions are common markets with coordinated fiscal, monetary, regulatory and social policies.

Integration, in whatever form, must be evaluated in an intensely practical setting. There is no *a priori* theoretical predictability about the economic consequences, and the implications for internal or domestic dislocations and national sovereignty can be substantial. Different integration levels entail different national sovereignty sacrifices as well as different intranational income redistributions. Consequently, it is important to recognize the dimensions of an integration decision and the areas where national policies and positions diverge. The severity of divergence between positions chosen from purely national perspectives determine the ease of agreement and the ultimate level of integration. It is useful, therefore, to raise and consider policy coordination issues carefully. Similarly, the question of potential economic benefits is probably a threshold determination.

This symposium is concerned with integration in North America. The continent is a natural geographic unit. Perhaps it is also an appropriate economic unit. There exists substantial intraregional trade as well as trade issues which parallel aspects of integration. The questions of labor and capital mobility and economic sovereignty are continuing areas of difficulty and discussion. The United States, Canada and Mexico are plainly quite different: Canada and the United States are developed nations while Mexico is underdeveloped; Canada and Mexico are resource rich while the United States faces serious energy problems; the U.S. market supports economies of scale in production while Canadian and Mexican markets cannot; the United States dwarfs Canada and Mexico, and the latter fear U.S. domination. It is a natural question, given the economic ties between these nations and their geographic locations, as to whether integration could produce benefits for all without greatly exacerbating existing difficulties. The symposium is organized to consider the threshold question of static trade benefits, the existing and required coordination of monetary policy, the implications of the continent's anti-trust policies and an appropriate regional policy, the incentive consequences of tax arrangements and the focii for planning tax policy in North America.

The first article is a layman's guide to the economics of integration. The work explains the connection between tariffs and economic welfare, a necessary step in understanding the economic implications of integration. The article reaches the theoretical conclusion that there can be no *a priori* isolated determination of the economic effects of integration. Rather, integration is an exercise in the second best and entails aspects of freer trade and enhanced protection. Evaluation of the economic consequences raises the question of political feasibility by identifying the group interests that protection creates.

Professor Kreinin considers the appropriate level of North American integration and the threshold question of economic benefit. The North American countries vary in degree of development and in foreign trade objectives. These serious differences preclude the creation of a customs union as well as any more significant coordination efforts. Real life circumstances delimit integration to the creation of a free trade area in manufactures. Moreover, a free trade area is not a guarantee of economic benefit. To answer that question requires consideration of the trade both diverted and created by integration, as assessed from the real conditions of trade and production. Kreinin concludes that a free trade area would, on balance, produce an economic benefit. Significant dislocations, however, would require a lengthy transition period and the creation of an adjustment fund.

The paper authored by Messrs. Wilford and Nattress raises the question of monetary integration and financial integration in North America. It is understood generally that an economic union requires the sacrifice of national sovereignty in monetary policy. In effect, extensive formal coordination would eliminate the independent monopoly each government exercises over the creation of money.

A nationalistic spirit is attached to the control of monetary policy which might prevent formal coordination. However, the obvious question is whether formal coordination is needed to achieve monetary integration. The paper addresses this issue by applying a portfolio decision model, including demand and supply side

currency substitutability, to North America. One conclusion is that private, or demand side, substitutability in North America is significant. Supply side substitutability, which reflects official foreign exchange market intervention and central bank portfolio management, reinforces the demand side effects. Overall, Canadian and Mexican monetary policies have been forced to track the American policy. Monetary policy is effectively coordinated, but not through the method of policy choices based on the total North American impact.

Professor McKie considers the problem of a regulatory or antitrust policy for North America. The basic notion is that elimination of anticompetitive behavior within the region would guarantee that the benefits of integration-induced competition would be realized and, perhaps, provide economic benefit independently. Professor McKie envisions a regional antitrust policy to control cartels, unilateral monopoloid effects and multinational corporations. The acceptability of a common policy of this type depends upon each country's presumption about the importance of competition and each country's fear of domination. Mexico has never regarded competition as crucial for development. Instead, infant industry protection and the preservation of local control of industry have been of paramount concern. Similarly, Canada has sought to contain foreign control of local industry. McKie concludes that despite the economic benefits provided by a common antitrust policy, the Canadian and Mexican concern over expansion of U.S.-based monopoly power into local industries would probably prevent agreement on such a common policy.

Professor Carstenson provides a comparison and reconciliation of Canadian, Mexican and U.S. laws regarding monopoly, merger and restrictive conduct. He goes further to consider the appropriate mechanism for enforcement of common rules dealing with these types of conduct. The North American countries all subject monopoly to legal control. There are, however, differences in the handling of structural monopoly as opposed to monopolistic conduct. American antitrust rules evaluate merger on competitive grounds; the Mexican and Canadian rules are far more tolerant of merger. Restrictive conduct is generally condemned in all three nations, however, the American rules are more severe. Overall, he concludes that the appropriate regional policy should generally mirror American antitrust law. It should be expected that the national differences will create vested interests opposed to integration as well as enforcement problems. The enforcement issues are substantial. The availability of private actions, the organization of the public enforcement agency, the mode of conduct of enforcement actions and the procedure for review are issues which must be resolved before any regional antitrust policy can be effective.

Professor Galvin considers the tax reform studies undertaken in Canada and the United States. The similarity of reform proposals bears on the issue of fiscal integration. American studies, such as they are, advocate an integration of personal and corporate taxation as well as some form of comprehensive tax base. Canada began to consider comprehensive tax reform prior to any such action in the United States and has made substantial tax legislation changes. Although the general parameters of tax reform are similar in each nation, Canada has been more

successful in effecting changes consistent with the reform outline. An overhaul of the tax system in the United States does not appear to be realistic in the foreseeable future. The clear implication is that a coordinated tax scheme would be difficult to achieve.

Professors Jenkins, Misir and Glenday distinguish corporate foreign investment income taxation policies in North America. Each nation has adopted a foreign income tax credit program. However, these programs are not uniform or unchanging; the Mexican program provides the least relief from double taxation, and the United States has recently made obtaining foreign income tax credits more difficult. The authors demonstrate the business incentive and tax transfer or fiscal implications of the foreign tax credit policies through an empirical survey of the interaction of the Canadian and American tax policies. Considerations which bear on the amount, location and type of investment must be raised in any serious evaluation of integration. The American foreign tax credit provision and the Canadian tax rate on the income earned by foreign corporations can affect the tax revenues collected in the United States and Canada as well as the decision to invest in Canada. These are issues of fiscal coordination and capital mobility, and the size of the effects is estimated for three changes in the Canadian tax policy. The results can be generalized; these tax changes primarily transfer tax collections between the Canadian and American governments without altering investment incentives.

The articles presented in this symposium identify important areas for future work. The recognition and resolution of these, and other, issues is a prerequisite for the realistic consideration of North American integration.

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