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The free trade agreements of North America

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Abstract: The definition of North America as a sub-region of the New World from the end of the Cold War to the post-Cold War era is still a perennial problem. The paper focuses on the analysis of the status of three countries in North America during the period from 1980 through 2022. By using the comparative method, content analysis from a legal point of view, and historiographical and statistical methods, the paper offers an answer to the research question: Can Canada, Mexico, and the United States nourish the idea of North America as a common area? Divided into two periods – before and after 2001, the paper points to the importance of the bilateral Canada-United States Free Trade Agreement (CUSFTA), which was superseded by the North American Free Trade Agreement (NAFTA) as a trilateral agreement involving Canada, Mexico, and the US. Further on, NAFTA was substituted by the Canada-United States-Mexico Agreement (CUSMA) as the final version. CUSMA was created in the years of the growing trends towards the weakening of democracy in Mexico and the US. The conclusion of this paper is grounded on the findings related to this sub-region of the New World.

Keywords: CUSFTA, NAFTA, CUSMA, North America, Canada, US, Mexico, common area.

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Introduction

After long-lasting, tough negotiations, the Canada-United States-Mexico Agreement (hereinafter: CUSMA) was ratified by legislative bodies of Canada, Mexico, and the US, and came into effect on 1st July 2020 (Government of Canada 2021, 1).² For many reasons, it was a very important day for North American countries. One can say that the CUSMA was concluded in times of major uncertainties: the global health crisis caused by the COVID-19 virus, the constitutional crisis and political turmoil in the US, and, above all, (un)successful attempts to undermine the integration process among countries of the North America. The attempt to define North America was firmly rooted in the surpassed traditional comprehension which includes Canada and the US. The narrow understanding of this part of the Americas as a separate sub-region had its foundation in the period of colonisation and the partition of the Americas. The settlement of the sub-region was caused by multi-level interests, policies, and strategies of great powers.

From a historical standpoint, France, Spain, and the United Kingdom (UK), as great powers, paved the way for drawing up Canada, Mexico, and the US constitutions. The outcome of the complex and lengthy period of colonisation and partition of North America was defining the spheres of interest. Historically, Canada, Mexico, and the US were constituted as single territorial units whose development and existence resulted from different Canadian, Mexican, and the US dynamic processes. As a result of the capability and influence of France, Spain, and the UK, it was possible to create an appropriate climate for Canada's, Mexico's, and the US's overall development. And indeed, at the end of the 1980s, Canada and the US were eventually re-orientated towards the establishment of CUSFTA – a trade bloc and inter-governmental organisation. The achievement of this purpose was possible in 1988 when Canada and the US decided to put their signatures on the key bilateral agreement – the Canada-United States Free Trade Agreement (hereinafter: CUSFTA), which, over the coming decades, strengthened the deep co-operation among countries of North America that would lead to the creation of North American Free Trade Agreement (hereinafter: NAFTA) and CUSMA.

The essence of Canada's and the US's decision to mutually co-operate on an equal basis encompasses a long-term vision to improve the inter-state relationships

² Contrary to the literature in Canada related to the Agreement, in the US literature CUSMA is well-known as the United States-Mexico-Canada Agreement (USMCA). In the literature of Mexico CUSMA or USMCA is called *Tratado entre México, Estados Unidos y Canadá* (T-MEC).

that have been developing since Canada's independence. In that sense, it should be highlighted that Canada has achieved its independence at a slower pace than Mexico and the US. Nevertheless, the Canada-US co-operation reached a crucial milestone in 1908 when both countries finally and officially delimited and demarcated the national boundary from the forty-nine parallel of the north latitude (The Treaty between the United States of America and the United Kingdom concerning the Boundary between the United States and the Dominion of Canada from the Atlantic Ocean to the Pacific Ocean 1908, Article VII and VIII, 10-12).

The era of the Fourth Industrial Revolution, characterised by digitisation since the 2008 global financial crisis, has emphasised the indisputable importance of close co-ordination of Canada, Mexico, and the US aimed at creating common policies and realising possible multi-level unification into a common area for North American foreign trade. Mexico's decision to make trade arrangements with Canada and the US impacted, to a great extent, the further development of the common area of Canada, Mexico, and the US. In the digitisation era, this common area is considered a highly topical issue for fruitful discussion among experts and scholars on multidisciplinary research regarding this part of the Americas.

Based on selected literature, this paper aims to point to the theoretical background of the research about co-ordinated and orientated trade among Canada, Mexico, and the US in favour of the common area. Owing to foreign trade, it was possible to define North America after de-colonisation and the achievement of the independence of Canada, Mexico and the US. Despite economic turmoil and political crises in Mexico and the US during the last three decades, the common area among countries of North America has survived.

The comparative method is applied to support the research question: Can Canada, Mexico, and the US nourish the idea of North America as a common area? On the other hand, the method of content analysis is used for the agreements and treaties ratified by the countries of North America. These agreements and treaties are noteworthy for the development of international public law and the evolution of the Free Trade Agreements (FTAs) system.

The findings presented and explained in this paper are grounded on historical events. They detect and explore the connection between the causes and effects of the creation of the CUSFTA and, later, NAFTA and CUSMA. The intention of Canada and the US to make an important step towards strengthening effective co-operation with long-term effects resulted in Mexico's joining the CUSFTA. Their foresighted decision to put their signatures on the CUSFTA at the beginning of 1988 (Capling and Richard Nossal 2009, 151) and implement its provisions was underpinned by their vision to transcend the national boundaries by pursuing the

common foreign trade policy, which, as Smil put it, and Hale (2018, 165) quoted, for example, resulted in

'[e]nergy transitions (that) involve major changes in the sources of energy available for use, whether nationally or regionally, in commercial, industrial, residential, or transportation functions, and the diffusion of economically competitive technologies and transportation systems to enable their secure (reliable), relatively efficient implementation for widespread use in particular sectors and geographic areas.'

The supporting argument in favour of the transportation functions in the common foreign trade among countries of North America implies that they are feasible because of the common language of these countries. With this in mind, for example, the trade between Canada and the US is still functioning to establish '[...] tighter economic ties.' (Helliwell 1997, 10). This also applies to the Mexico-US relationships.

Canada, Mexico, and The US: Important actors and key factors in defining North America

When the 27th Conference on the Parties (COP27) was held in Sharm-el-Sheikh, Egypt, within the United Nations Framework Convention on Climate Change (UNFCCC) to resolve the problem of carbon dioxide and start the decarbonisation process (UNFCCC 2022, 2 *et passim*), Canada, Mexico, and the US agreed to hold trilateral meetings after the Conference. Whenever they held trilateral meetings, Canada, Mexico, and the US tended to avoid the potential impacts of future crises and discuss them if they arose. As a result, the last trilateral meeting was organised in Mexico City at the beginning of 2023 (Congressional Research Service 2023, 1).

In the following two subsections of this paper, a brief history of Canada, Mexico, and the US indicates that the period from 1980 to 2022 implies to the incomprehensible radical changes. For example, in 1980 the automotive and other industries still depended on manual work with robotics assistance. However, forty-two years later, in 2022, these industries rely on computers using artificial intelligence (AI) and digital manufacturing which radicalised people's consciousness and perception of the world, becoming '[...] a very real threat facing tens of millions of (employees), everyone from truck drivers and lawyers to call center workers and accountants.' (Baldwin 2019, 190).

Canada, Mexico, and the United States from 1980 to 2001

In November 1980, Ronald (Wilson) Reagan was elected as the US president, and his first term began on 20th January 1981. That year, Canada successfully overcame both constitutional and political crises. Quebec's first attempt to secede from Canada during the premiership of Joseph Philippe Pierre Yves Elliott Trudeau and under the leadership of secessionist René Lévesque failed. This act may be interpreted as one of the reasons why the Constitution of Canada was adopted and enacted in 1982 (LaSelva 2002, 208; Oliver 1999, 542-543).

As for Mexico, this country has been viewed as one of the Latin American countries for an extended period of its history. From achieving independence in the 1820s to 1992, Mexico was regarded as part of Spain's political and cultural identity. With its mainly weak economy and political culture, Mexico has also been regarded as part of the US's economic and, to a lesser extent, political influence. During the presidential term of José López Portillo, Mexico hosted the North-South economic summit conference at Cancún (Gupta and Anisul Islam 1983, 1) in the oil boom period, which '[...] initiated the last period of high growth rates until the late 1990s' (Hamnett 2004, 277). The North-South economic summit conference in Cancún added significance to the need for global negotiations which arose in the Reagan era. Yu III (2008, 37) cited Rubens Ricupero, the former Secretary-General of the United Nations Conference on Trade and Development (UNCTAD), for highlighting the atmosphere favouring globalised economy in the era of diplomatic confrontations and struggles between developed and developing countries during the 1980s. In this atmosphere, Canada, Mexico, and the US gradually built solidarity and defined unconditional mutual trust, which paved the way for NAFTA.

No one thought that changes at the global level at the time of Pierre Trudeau, José López Portillo, and Ronald Reagan could lead to the overall radicalisation of the world order that was polarised in two ideologically opposite blocs. The capability of capitalist states, characterised by an open economy and liberal political system, to oppose the concept of states with single-party systems, as well as socialism that relied on a planned economy, contributed to the existence of the FTAs system. While the Cold War was coming to an end during the 1980s, capitalist states Canada, Mexico, and the US were preparing for the establishment of NAFTA, that, according to Viner quoted by Panagariya (1996, 485), indicates a strong tendency towards '[...] liberalise(d) trade on a discriminatory basis by removing trade barriers exclusively against union members [...]'].

After being re-elected as the US president in 1984, Reagan spent his second term preparing himself for defining and taking a new step in relationships with

Canada in terms of trade integration. Together with his counterpart and the successor of Pierre Trudeau and John (Napier Wyndham) Turner, (Martin) Brian Mulroney has accepted the task of co-ordinating Canada's trade policy with the same policy of the US. But Mexico has stood aside during the presidential term of Miguel de la Madrid Hurtado, who, as opposed to Mulroney and Reagan, undertook the task '[...] to stabilise the economy and survive the immediate (economic) crisis (which depended on oil and its products), and to find some alternative model of development for the country' (Hamnett 2004, 279).

The signing of CUSFTA during Mulroney's and Reagan's administrations on the eve of the Cold War was seen as a foresighted act to denote the outlines of the future relations in the field of trade between Canada and the US through the inter-governmental organisation. Under Article XXIV of the General Agreement on Tariffs and Trade (GATT) concluded in 1947, Canada and the US were obliged to work to 'establish a free-trade area' (CUSFTA, Article 101). The following Article 102 of CUSFTA stipulated that both countries will:

- 'a) eliminate barriers to trade in goods and services between the territories of the Parties;
- b) facilitate conditions of fair competition within the free-trade area;
- c) liberalize significantly conditions for investment within this free-trade area;
- d) establish effective procedures for the joint administration of this Agreement and the resolution of disputes; and
- e) lay the foundation for further bilateral and multilateral cooperation to expand and enhance the benefits of this Agreement.' (Government of Canada 1988, 9).

The vision to integrate independent national markets of Canada and the US and their mutual trade into a free trade area is supported by the common language and convergent policy in favour of the functioning of CUSFTA. As opposed to that, the absence of the vision to achieve a deeper integration between Canada and the US, and later Mexico, into a single area relied on the ambivalence of the US foreign and neighbourhood policy towards Canada. Moreover, the independence of the US economic and monetary policy from Canada was one of the obstacles to the economic dimension of the Canada-US integration, fuelled by the fact that '[t]he international capital markets and domestic asset holders had (seriously) lost confidence in the Canadian currency' (Courchene and Harris 2000, 13).

Gaining crucial confidence in the Canadian dollar as the national currency would ease, speed up, and spur the economic and monetary integration between Canada and the US as the only two founding states of the CUSFTA. On the other hand, the lack of the needed confidence in the Canadian dollar was in contrast to

the provisions of the CUSFTA relating to the gradual and free elimination of trade barriers to goods and services set up by Canada and the US as CUSFTA's high contracting parties. Owing to the removal of the trade barriers by Canada and the US, the CUSFTA addressed essential issues in its eight parts and twenty-one chapters in the field of agriculture, binational dispute settlement in antidumping and countervailing duty cases, border measures, emergency action, energy, financial services, investment, rules of origin, services, temporary entry for business persons, trade comprising automotive goods, etc., (Government of Canada, 1988).

In the 1988 presidential election, Reagan was succeeded by George (Herbert Walker) Bush or George Bush Sr, who actively worked on further implementation of the CUSFTA's provisions. One can say that he managed to do it despite the economic crisis in Canada of 1990, resulting in the acute '[...] recession and a loosening of monetary policy (in which) the Canadian dollar resumed its downward trend' (Blacker and Seccareccia 2014, 8). The evidence for this quote can be found in Galbraith's argument that in the first years of the implementation of the CUSFTA's provisions, Canada confronted the wrongdoings of Robert Campeau, the man who had been suspected of illegal business activities dealing '[...] with hundreds of millions of entrusted dollars', which could be a dangerous trigger for '[...] the greatest financial scandal of all time' (Galbraith 1990, 103-104).

While Campeau was developing harmful business ties with the possibility of undermining the financial systems of Canada and the US, no one expected nor imagined that the CUSFTA would survive. Also, no one in the international community in 1990 predicted publicly that George Bush Sr would be succeeded by his son, George (Walker) Bush or George Bush Jr in the last year of the 20th century, who was well-known as the first president who called into question the validity of the NAFTA provisions in the first place due to the long-lasting '[...] war on terror (during which an) immigration agreement with Mexico (was promised)' (Powaski 2019, 141).

When Bill Clinton (William Jefferson Blythe III) was elected as the next US president in 1992, the era of overall world progress was believed to begin. It was obvious that there was a need for unstoppable integration processes in North America as a result of favouring the climate of growing, mutual trust among states. This atmosphere was marked by co-operation among Canada, Mexico, and the US aiming to facilitate trade and, accordingly, to enable the free circulation of goods and the migration of people by accepting NAFTA under the influence of the US president who '[...] won the constitutional authority to substitute the agreement of both Houses for the traditional advice and consent of the Senate' (Ackerman and Golove 1995, 803).

During Clinton's two presidential terms, the United States was the leading promoter of the idea of spreading democracy as one of the tools for resolving many intra- and inter-state relationships. In the period from 1993 to 2001, the US was conducting its foreign policy intending to be not only a hegemonic state but also an arbiter in avoiding and freezing inter-state conflicts, including the possibility of using controversial and unilateral US-led military intervention, which, by the end of the 20th century, '[...] was (...) a call to reject the political counterpart (...) and (...) to impose (the US's) will' (Black 2016, 226). As for North America, in the post-industrial era, the US has gradually been confronted with a growing number of illegal immigrants originating from Mexico with the possibility of assimilating them into the United States (Castles 2002, 1155; De Genova 2002, 433; Grandin 2019, 208; Powaski 2019, 9).

At the beginning of Clinton's first term of office in 1993, Kim Campbell (Avril Phaedra Douglas Campbell) was elected as the first female Canadian prime minister. That was a significant event representing a milestone in the political history of Canada. Campbell's previous post was '[...] an MP from Vancouver who had proven her mettle as minister of Indian and northern affairs and minister of justice' (Conrad 2012, 264). The election of Kim Campbell meant a progressive step towards the de-masculinisation of Canadian politics and inevitable changes in domestic political climate and culture, which spawned '[...] questions emerging from (...) feminist foreign policy and gender equality (that) include the following: How is th(e) rhetoric different from previous governments' approaches to promoting gender equality in foreign policy commitments?' (Tiessen and Swan 2018, 187-188). The possible answer to these questions relies on the fact that Canada is very highly ranked in the Human Development Index (HDI) and that the de-masculinisation of Canadian politics is very dependent on women, who tend to be active in formulating Canada's foreign policy agendas.

When one compares the position of Canada in the HDI every five years (in 1990, 1995, and 2000), it can be observed that Canada was ranked among countries with very high human development. From 1980 to 1985, before the introduction of HDI as a contemporary measure of human development, life expectancy in Canada increased from 75.2 to 76.6 years (Statistics Canada 2018, 1-2). The 1980s saw gradual growth in life expectancy owing to the long-term internal social order and peace. During these years, all possible gains in the early phase of trade liberalisation between Canada and the US in the second half of this decade were '[...] sufficient so that the growth rate accelerated for a period of years' (Krueger 1998, 1517).

The introduction of the HDI in 1990 shed light on the problems of the world countries and the way to tackle multifaceted issues in international relations. Faced with the unresolved problem of dealing with growing economic, political, and social

issues, many world countries, including North America, were trying to find an optimal solution for improving their educational standards, welfare conditions, and life expectancy. The improvement of these criteria served as a basis for adopting the Millennium Development Goals (MDGs), signed in 2000, which heavily relied on the United Nations Millennium Declaration. Within these goals, many issues were defined. They were reflected in

‘[c]ollective identification of needs and the provision of resources towards building the capacity of health care providers at all levels; pre-service and in-service has boosted the confidence and motivation of service providers’ (the United Nations Development Programme and the World Bank Group 2016, 93).

Apart from the MDGs, the problem of human development in Canada and the US had not existed to the extent that would be an obstacle to both countries as recognised countries. The case of Canada indicated sustainable growth in human development, particularly in the sphere of life expectancy. Canada was ranked 2nd in the HDI in 1990, occupying a higher position compared to Mexico and the US (United Nations Development Programme – UNDP 1991, 15).

In respect of Mexico, the life expectancy (*la esperanza de vida*) in the 1980s notably progressed to a very moderate level. The statistical data on life expectancy in Mexico in 1980 and 1985 amounted to 66.55 and 68.81 years, respectively. In 1990, when Mexico initiated trade integration with Canada and the US while expanding CUSFTA, life expectancy in Mexico reached 70.87 years (Datos macro 2023, 1). As a result, in 1990, Mexico was ranked 45th (UNDP 1991, 16). Compared with Canada and the US, it is noticeable that Mexico was positioned very low. Such a position may come from discrepancies in living standards among countries of North America in the 1980s and at the beginning of the 1990s.

As regards human development in the 1980s, the US was also highly ranked. According to the US statistics, life expectancy in 1980 and 1985 was 73.25 and 74.37 years, respectively (Statista 2022, 1). However, the year 1990 reports the US experiencing a notable growth in life expectancy, occupying a very high position and ranking 7th (UNDP 1991, 15). This fact points to gradual changes that impacted the improvement of US citizens’ quality of life and standard of living.

In the modern history of Canada and the US, particularly during the Cold War, Mexico was viewed as a country with an occasionally unstable social order. The 1980s witnessed a backward social order caused by economic weaknesses regardless of significant policy improvements and measures by Portillo’s, de la Madrid’s, and Carlos Salinas de Gortari’s administrations at the end of the war. With this in mind, the three successive Mexican presidents who have made decisions about the economy and foreign policy tended to nourish the idea of

Mexico's independence by staying out of Canada's and the US's policy in the domain of trade and defining North America mainly as encouraged by

'[t]he debt crisis of the 1980s and the breadth and depth of concurrent economic problems-high inflation, overvalued currencies, chronic disequilibria in trade and fiscal balances, (and) massive capital flight [...]' (Lee 1995, 1275).

The importance of the CUSFTA was confirmed by transferring its provisions to NAFTA, which was ratified and embodied in the legal systems of Canada, Mexico, and the US by coming into force in 1994. Comparing the CUSFTA and NAFTA, one can note that with regards to NAFTA, there was a great tendency among the three countries to fully co-operate and deeply harmonise complex and different issues of common trade. The essential characteristic of NAFTA is adherence to the provisions prescribed by CUSFTA in which Mexico was treated as the third party to this agreement on an equal basis as a result of '[...] Mexico's unilateral trade liberalization that began in 1986' (Romalis 2007, 416). There are some similarities between NAFTA's and CUSFTA's provisions. At first glance, no important changes have been made in the NAFTA provisions – they are divided into eight parts. However, the accession of Mexico to the Canada-United States Free Trade Agreement meant not only renaming the bilateral agreement into the trilateral agreement but also a new, broader definition of North America in which Mexico was recognised as its integral part (Capling and Richard Nossal 2009, 148). Consequently, the following question is raised: What are the similarities and differences between CUSFTA and NAFTA?

Being in force from 1994 to 2020, NAFTA owes its survival to its precisely defined provisions. The use of content analysis from a legal point of view reveals that the evolution of NAFTA's provisions, covered by twenty-two chapters, had to do with the time of the Uruguay Round of Multilateral Trade Negotiations during the 1980s and the future establishment of the World Trade Organisation (WTO) in which '[...] the NAFTA drafters added a phrase which provides (...) amendments (that) must be consistent with any successor agreements to the GATT [...]' (Rosa 1993, 273, footnote 123). The consistency of NAFTA provisions with the GATT has to be grasped in the context of an in-depth understanding of the need for co-operation and in line with the existing regulations on multilateral trade. Viewing NAFTA as a specific agreement and comparing it with CUSFTA, it should be noted that Chapter Twenty of Part Seven is changed significantly. While Chapter Twenty of the CUSFTA's Part Seven generally stipulates that high contracting parties will further work together on the implementation of legal systems by respecting CUSFTA provisions which define the mutual obligations of Canada and the US, NAFTA provisions do not state the above. For example, regarding intellectual property in Article 2004 of the CUSFTA, it is stipulated that both parties shall pursue

their policy and [...] cooperate in the Uruguay Round of multilateral trade negotiations and in other international forums to improve (the) protection of intellectual property' (The Canada-U.S. Free Trade Agreement 1988, 296) important for the development of the Fourth Industrial Revolution.

On the other hand, intellectual property rights are not mentioned in NAFTA's Part Seven, i.e. in Chapters Eighteen, Nineteen, and Twenty. Instead, these chapters refer to administrative and institutional provisions. Chapter Twenty regulates general institutional arrangements and dispute settlement procedures. In Article 2003 of this chapter, countries of North America are obliged to [...] agree on the interpretation and application of this Agreement, and shall make every attempt through co-operation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect (the) operation (of dispute settlement procedures).' (North American Free Trade Agreement 1992, 375). For example, NAFTA's provisions regarding intellectual property rights may be found in Part Six and Chapter Seventeen with annexes to the Agreement (North American Free Trade Agreement 1992, 328-349).

According to some scholars, there is a similarity between Chapter Nineteen of CUSFTA with the same chapter of NAFTA. It is pointed out that Chapter Nineteen of NAFTA' [...] is the direct descendant of Chapter Nineteen in the 1988 Canada-United States Free Trade Agreement [...]' (Miranda and Levy Kent 2018, 1). The analysis of the same chapter in both CUSFTA and NAFTA reveals that the analogue provisions apply to Mexico, particularly since CUSFTA has been superseded by NAFTA, regardless of its economic conditions and political climate, which are characterised by different patterns of development in comparison with Canada and the US.

The first years of the implementation of NAFTA were marked by events that shaped our consciousness on the relativity of the state's power in the post-Cold War era. In 1995 Canada experienced its second constitutional and political crisis manifested in Quebec's repeated attempt to achieve independence. Under the leadership of the separatist Jacques Parizeau, who tried to resolve the status of Quebec by splitting from Canada, the attempt was a failure due to the strenuous Canadian prime minister (Joseph Jacques) Jean Chrétien, who pushed the supremacy of the '[...] federal legislation to limit a federal minister's to introduce a constitutional amendment resolution to Parliament' (Oliver 1999, 601-602).

The discussion on the importance of the multi-level integration of NAFTA member states is possible when one considers that the trade depends covertly on the complex unity of Canada, Mexico, and the US. Regarding the territorial integration of states, as one can see in the case of NAFTA members, inter-state

disputes are likely to be settled by using the existing procedures of international organisations. The following argument for this assumption relies on the fact that

'[t]he dispute settlement provisions of Chapter 20 are applicable primarily to inter-state disputes concerning the interpretation or application of the NAFTA, including disputes relating to the financial services provisions of Chapter 14' (Shaw 2008, 1039).

The CUSFTA stipulates financial services in Part Five, Chapter Seventeen. These services encourage mutual trust between Canada and the US. In Articles from 1702 to 1705, Canada and the US are reciprocally obliged not to impose discriminatory measures in their financial services and transactions (The Canada-U.S. Free Trade Agreement 1988, 251-254). When it comes to mutual trust between countries, it implies that financial services and transactions tend to surpass local, state, and national boundaries.

If Miguel de la Madrid Hurtado is remembered for pursuing an independent foreign trade policy regardless of the common trade policy between Canada and the US, then Carlos Salinas de Gortari is remembered for taking a critical step towards advocating the necessity of joining Mexico to the CUSFTA. In this sense, de Gortari made great success with the inclusion of Mexico in NAFTA, a trilateral agreement signed on 17th December 1992 (Ortiz 2009, 295). The successor of Carlos Salinas de Gortari, Ernesto Zedillo Ponce de León, continued to pursue the policy of his predecessor to facilitate trade with Canada and the US. Also, de León pursued the policy towards allowing US companies to allocate their production with cheap labour forces to Mexico. Such policy was the very reason why US companies devoted themselves to creating and encouraging the existence of *maquiladoras*³ which in the 1990s were renowned for difficult circumstances and inadequate conditions for the Mexican workforce. In these circumstances, Mexico seemed not to enjoy equal status within NAFTA, which is confirmed by the fact that '[...] the struggle to preserve the community, whose residents are primarily maquiladora workers, has also led to labor conflict in the factories themselves' (Bacon 2004, 133).

In addition to labour conflict, the Mexican currency crisis in 1995 indicated that the economy of Mexico was incompatible with the economy of Canada and, especially, the US economy. In comparison with the economy of Canada and the US, Mexico featured a backward economy which could threaten the common trade among NAFTA's member states. Accordingly, the US acted without delay to restore

³ Maquiladora – a factory in Mexico run by a foreign company and exporting its products to that company's country of origin.

the economy of Mexico by providing financial support, which is illustrated by the fact that

[...] the administration of U.S. President Bill Clinton stepped in and proposed a \$40 billion loan package to bail out the Mexican government. Although Congressional opposition prevented passage of this proposal, the Clinton administration used existing exchange-rate stabilization funds to make a smaller package of \$20 billion of loans and loan guarantees available to Mexico, coupled with additional aid from multilateral institutions such as the IMF' (Blecker 1996, 3).

Despite the currency crisis, Mexico successfully saved its relatively unchanged position in the HDI ranking scale since it connected Canada and the US with the rest of the Americas. The statistical data for the year 1995 show that Mexico ranked 49th (UNDP 1998, 21), preserving its status as the country capable of maintaining a balance of trade between Canada and the US with the countries of Latin America. On the one hand, owing to its stable political climate, Mexico overcame the crisis and consequently enabled the implementation of NAFTA, pursuing '[...] the stabilisation policies introduced (that) contributed greatly to the rapid recovery of the Mexican economy' (Hamnett 2004, 292). On the other hand, in the year 1995, according to HDI, Canada and the US ranked 1st and 4th, respectively (UNDP 1998, 20). Such a high position indicated the tendency of these countries to maintain and preserve a peaceful and stable political climate to facilitate the implementation of NAFTA provisions. Moreover, the stability of political environments in both countries, including Mexico, was confirmed '[...] by creating a climate of investor optimism that kept short-term capital flowing into Mexico despite deep social and economic problems, including an overvalued peso' (Anderson, Cavanagh, and Landau 1997, 1).

The long-lasting harmonisation of Mexico's economy with the conditions and provisions of NAFTA resulted in notable trade growth between Mexico and the US but slow trade growth between Canada and Mexico. During the 1990s, Mexico and the US began to confront and struggle with illegal immigrants and illicit drug trade. To Clinton and de León administrations, it seemed that these criminal activities would not be a serious issue because they were not perceived as a threat of terrorism but, on the contrary, led to the perception that the '[...] U.S. economic policy has provoked one of the greatest migrations in history [...]' (Grandin 2019, 209).

In Clinton's second presidential term, the immigrant issue could be treated as a sensitive issue that would jeopardise trade, especially since the establishment of NAFTA. Due to the US's good relationships with Canada and Mexico, the trade among countries of North America was not in contrast to the immigrant issue

(Woroby 2019, 134-138). During their presidential term, Clinton and de León did not regard immigration as an agenda for tackling inter-state issues towards surpassing many '[...] continuing strains, tensions, and setbacks – a far cry from the precrisis period' (Morris and Passé-Smith 2001, 144).

In defining the post-Cold War relationships among countries of North America in future events, it was necessary to develop close co-operation. When it comes to long-established relationships between Canada and the US, as the signatory states of CUSFTA, it is obvious that both countries endeavoured to preserve their relationships to avoid, in the long-run, political instability and turmoil in favour of creating the domestic economy and conducting foreign policy. It was proven that preserving such relationships has been key to maintaining the high-level co-operation between Canada and the US. In later years, this co-operation was expanded to Mexico, providing for the internal order in Canada, Mexico, and the US to be compatible with the functioning of NAFTA, which was regarded as a respectable inter-governmental organisation among countries of North America. NAFTA '[...] was (solely) designed as a business contract among the three countries with limited instruments for strengthening and extending its scope' (Miller, Dillon, and Robertson 2014, 7).

Once established, NAFTA not only superseded CUSFTA but also paved the way for consultations on the actual and future directions of multifaceted relationships among statesmen of Canada, Mexico, and the US. Considering NAFTA in a broader context of the definition of North America, Mexico is recognised as the third country in this part of the Americas. The last decade of the 20th century has been marked by an attempt to cement all decisions and endeavours of North American statesmen owing to '[...] awareness of the need to balance economic integration and security needs (that) has sparked even closer cooperation between the three governments' (Condon 2018, 37). Canadian, Mexican, and US statesmen's unquestionable commitment to the NAFTA provisions was heralded as a new way of thinking about how the agreement must adapt to a changeable reality. The major development in the sphere of digital and information technology in the late 20th century raised a question about the new reality in the development of mobile phones by using computerisation (Bresnahan 1999, 403-404). In any case, in 2000, Mexico and the US experienced significant changes in their political climate – Vicente Fox Quesada and George Bush Jr were elected as presidents of Mexico and the US.

The change of the ruling political party in Mexico in 2000 led to a new political climate that spurred the slow development of democracy and confirmed the importance of a multiparty system in this country. The victory of Vicente Fox Quesada in the presidential election in Mexico was a turning point in the ruling

Institutional Revolutionary Party (Partido Revolucionario Institucional – PRI). The long-term presence and survival of the PRI on the political scene of Mexico from 1930 to 2000 was partially the result of the legacy of civil war in the 1910s and the defined but unfinished vision of Mexico within the democratisation process. This vision was undermined by the flow of illegal immigrants at the end of the 20th and the turn of the 21st century (Ortega Velázquez 2020, 7).

The last leap year of the 20th century, on the one hand, saw an insignificant decline in the HDI, as indicated in the case of Canada and the US. The countries were ranked 3rd and 6th in the HDI ranking scale (UNDP 2002, 149). Compared with the HDI 1990 and HDI 1995, Canada and the US were ranked among countries with high human development, whereas from the 2000s to 2022, they were recognised as countries with (very) high human development. In the 1990s and earlier, Canada, Mexico, the US, as well as all countries of the Americas, were not ranked as countries with multi-dimensional development. On the other hand, Mexico experienced a significant decline in the HDI, occupying the 54th position, so it was ranked among countries with medium human development (UNDP 2002, 150). In broad terms, with its internal political change, Mexico was ranked among countries with high and medium human development. Such a position of Mexico reveals that its efforts were directed not only to prevent the greater decline in the HDI but also to avoid a further dramatic plunge in that sense.

Despite being the prime minister of Canada in the 20th century, Jean Chrétien was the only statesman who extended his activity in Canadian public policy to the first years of the next century. With its exceptionally high position in 2000, Canada confirmed its development standard and consequently tried to cope with many challenges likely to be faced in the post-Cold War. Furthermore, as a country which is partitioned into many federal units, Canada retained its territorial integrity because it was brought into line with the NAFTA provisions on Canada's involvement in the trade among countries of North America.

Canada, Mexico, and the United States from 2001 to 2022

The year 2001 began with a change in the perception of ideological conflicts between the countries with capitalist and socialist economic systems, which as part of the past, consequently led to democratisation. The change of ruling party in Mexico was confirmed by the victory of the National Action Party (Partido Acción Nacional – PAN) partially because '[t]he government has often suggested the need for modernization and democratization, but it has been very slow in promoting these tendencies' (Stavenhagen 2000, 131). The new ruling party was a turning point in Mexico's political history since that was a unique time for unavoidable

changes in the country's political arena. Mexico was striving for the political modernisation process in relation to Canada and the US. The election of Paul Edgar Philippe Martin (Paul Martin Jr) as the Canadian prime minister in 2003 supports this presumption. In conducting the Canadian foreign policy, Martin was dedicated to the survival of NAFTA as an additional confirmation of the Canadian presence in world politics. He is a descendant of Joseph James Guillaume Paul Martin (Paul Martin Sr), an eminent figure in Canadian diplomacy and politics who ensured Canadian presence in world politics during the Cold War. Paul Martin Sr was particularly responsible for maintaining and strengthening the democratisation process, which incorporated

'[...] three priorities: first, the promotion of prosperity and employment through trade; second, the promotion of global peace to protect Canada's security; and third, the projection of Canadian values and culture for Canada's success in the world. There was a fourth, *de facto* priority: ecologically sustainable development was highlighted as an imperative crosscutting the other three' (Kirton 2009, 6).

The involvement of Mexico in global affairs in the 21st century means a continuation of the active foreign policy of the previous two centuries of Mexico's independence which oscillates between the United States, on the one hand, and Latin America, on the other. When Felipe de Jesús Calderón Hinojosa (Felipe Calderón) was elected in 2006 as the president of Mexico (Congressional Research Service 2006, 2), Paul Martin Jr resigned his position (Calvert 2018, 151). In the same year, the Economist Intelligence Unit (EIU) began to publish the annual Democracy Index, which is regarded as an important tool for the assessment of a better and deeper understanding of the world countries' status, including Canada, Mexico, and the US in the international community and international relations.

According to the 2006 Democracy Index, Canada and the US were ranked 9th and 17th, respectively, among the countries characterised by full democracy. As opposed to Canada and the US, Mexico was ranked among countries with flawed democracies occupying the 53rd position (EIU 2007, 3). One of the possible explanations and reasons for the low score of democracy in Mexico may be found in the absence of a more effective and stronger functioning of its government and the advanced development of political culture and participation.

The year 2006 was important not only for the presidential elections in Mexico but also for the election of the prime minister of Canada. Stephen (Joseph) Harper won this election and, together with Felipe Calderón and George Bush Jr, witnessed the emergence of the 2008 global financial crisis, which escalated into a deeper economic crisis. During his premiership, Canada was badly hit by the crisis. Its trade

with Mexico and the US was partially weakened because ‘[...] the US economy entered into a recession by the end of 2007. In the fall of 2008, the recession deepened further’ (Zestos 2016, 103). In 2005, a year before the elections both in Canada and Mexico, Canada was ranked 4th in HDI, undoubtedly indicating that it was among the countries with high human development. The US and Mexico were ranked 12th and 52nd, respectively, among countries with the same high level of human development (UNDP 2007, 229). Country classification according to the level of human development of Canada, Mexico, and the US clearly showed a tendency to maintain nearly the same level of human development.

In 2008, Barack (Hussein) Obama Jr achieved a sweeping victory in the US presidential election, marking the end of the George Bush Jr era. As the descendant of the Kenyan economist Barack (Hussein) Obama Sr, Barack Obama Jr, before and after his re-election for his office in 2012, succeeded in boosting the US economy by providing stimulus packages for the recovery of the main sectors of the economy necessary to the functioning of the US (Zestos 2016, 103). These packages have proven to be a necessary measure for the US economy and the future survival of NAFTA.

The year 2010 witnessed Canada’s gradual decline in the Human Development Index when Canada was ranked 6th. Contrary to Canada, the US showed gradual growth occupying the 4th position in HDI. Both countries were classified as countries with very high human development. Only Mexico showed a significant decline in human development and was ranked among countries with high human development occupying the 57th position (UNDP 2011, 131). The 2011 Democracy Index indicated that Canada and the US were ranked 8th and 19th, respectively. On the one hand, both countries were positioned among countries which have progressed to full democracies. On the other hand, Mexico had made modest progress in its democracy. It was ranked 50th among countries with flawed democracies (EIU 2011, 3-5).

Enrique Peña Nieto’s election as Mexico’s president in 2012 meant a continuation of the struggle to recover the domestic economy and continue with the transportation of goods from Mexico to Canada and the US. In this sense, the three countries had a delicate task of finding a solution to cope with plunging economies which were manifested in:

‘[...] Canada’s and Mexico’s efforts to diversify their trading partners – account for some of the slower pace. But U.S. policies also applied the brakes to North American integration, including NAFTA’s limitations, inefficiencies along the border, and increased security costs after 11th September, 2001’ (Council on Foreign Relations – CFR 2014, 33).

In those circumstances, the countries of North America were challenged by the global financial crisis to maintain their co-operation in the domain of automotive protection, intellectual property rights, transportation rules, growing digitisation, and climate changes. It can be said that in the time of Harper's premiership, the global financial crisis could stop the functioning of NAFTA. The global financial crisis was one of the stumbling blocks in the survival of NAFTA as an actor in international relations.

Justine (Pierre James) Trudeau came into power in the year when the global migration crisis emerged. In 2015, the migration issue became the subject of controversial decisions by states both at the domestic and international levels regarding maintaining and optimising regular migrant control at border crossings. For example, '[d]ue to the lack of a decrease in the number of illegal immigrants, the United States decided not to open borders for trucks (at the US-Mexico border), despite the (...) obligation (that) was imposed by the NAFTA regulations' (Wordliczek 2021, 304). The new global crisis at the domestic level was manifested in the implementation of tougher rules and stringent regulations on migration. Unlike the Mexico-US border (la frontera de México y Estados Unidos – EEUU), the Canada-US border was renowned for no border incidents and free crossings between these countries for decades.

The statistics of the HDI 2015 indicated that Canada, together with the US, on the one hand, was ranked among countries with very high human development. According to data, Canada and the US were ranked 10th and 11th, respectively. On the other hand, Mexico was ranked 77th among the countries with high human development (UNDP 2016, 200-201).

Mexico's president Andrés Manuel López Obrador began his term of office in 2018 when the US completely recovered from the global financial crisis and created a new Canada-United States-Mexico Agreement (CUSMA). With his counterpart Donald (John) Trump Sr elected in 2016 as the US president, Obrador had to persuade Trump not to withdraw from NAFTA when he '[...] has tried to avoid conflict with Trump [...]' who qualified immigrants from Mexico '[...] as rapists and drug runners during his 2015-2016 campaign for the U.S. presidency' (Solomon 2020, 2). Obrador held his firm conviction that NAFTA should survive but be replaced with a new agreement. It was CUSMA that was established '[...] after Trump's ascension to the U.S. presidency' (Soroka 2021, 99). Thanks to the unshakeable conviction, Obrador and Trudeau played the role of defending and promoting the idea of the importance of a trade bloc among countries of North America (Lilly 2019, 17).

What is the difference between CUSFTA and NAFTA, on the one hand, and CUSMA, on the other? Compared with CUSFTA and NAFTA, it seems that CUSMA is a broader agreement and one of the most detailed legal documents in the

international agreements and treaties system. With its thirty-four chapters, CUSMA, among other issues, includes intellectual property rights (Government of Canada 2018, 1396-1456). Bearing in mind that CUSMA was established in the digitisation era, the entire agreement contains essential provisions on digital technology use. For example, this is evidenced in Chapter Twenty, dealing with intellectual property rights in the context of digital technology. These provisions are set forth in Article 20.88 under the subtitle 'Internet Service Providers' (Government of Canada 2018, 1449-1450). Regardless of intellectual property rights and digital technology stipulated by CUSMA, a question is raised: What were the indicators of democracy in Canada, Mexico, and the US during the last years of NAFTA existence?

The 2016 Democracy Index indicates that the countries of North America were quite differently positioned. According to the Democracy Index, Canada was the only country which still enjoys prestige among countries of full democracy, occupying the 6th position. As for Mexico and the US, this Index shows that countries in this part of the Americas were categorised as countries with flawed democracies, occupying the 21st and 67th position, respectively (EIU 2017, 7-8).

Both Canada and Mexico felt relieved when Joseph (Robinette) Biden Jr was elected in 2020 and, after the ceremonial inauguration, sworn in the next year as the US president, although he was an influential figure as the US vice president during the Obama era. A few months before the election of Joseph Biden Jr, CUSMA came into force. It marked the beginning of a new era in multi-level relationships among Canada, Mexico, and the US. In 2020, a necessary convergent policy prevailed again in the countries of North America, particularly after Trump's term of office.

According to the 2021 HDI, Canada and the US were highly positioned among countries with very high human development. In 2020, Canada and US were ranked 15th and 21st, respectively. A different HDI score of Mexico is confirmed by its ranking 88th among countries with high human development (UNDP 2022, 272-273). In 2021, Canada, Mexico, and the US ranking in the Democracy Index resulted from the critical and unprecedented changes in international relations. The emergence of the 2020 global health crisis additionally weakened the trust in democracy built long ago as a recognised value which seriously jeopardises inter-state relationships. In the case of North America, the supporting evidence for this claim can be found in the 2021 Democracy Index, which showed that Canada was ranked 12th among countries with full democracy, while the US was ranked 26th among countries with flawed democracy. Only Mexico was categorised and ranked among countries with hybrid regimes, occupying the 86th position (EIU 2022, 12, 14).

Conclusion

Canada's, Mexico's, and the US's onerous task to maintain and protect the idea of North America as a common area can be fulfilled owing to their capability to develop a common trade area and find a common language to define North America as a sub-region. It is assumed that the re-election of Reagan was a crucial moment in defining North America as a large trading area and implementing decisions in compliance with CUSFTA, NAFTA, and CUSMA. The end of the Cold War made it easier for the evolution of a trade bloc of North America without erecting a permanent wall on the Canada-US and the US-Mexico border that could consequently, in the long run, lead to

'[...] rising environmental hazards related to the NAFTA (and later, CUSMA)-induced industrial development that has far outstripped investment in environmental infrastructure' (Cavanagh, Anderson, Serra, and Espinosa 2002, 59).

The industrial development outrunning investment in environmental infrastructure has positive and long-term effects on future intra- and inter-state relationships among countries of North America. Taking into account all countries of this part of the Americas, it appears that they, particularly Mexico and the US, are vulnerable to global crises, which tend to devitalise their democracies. According to the 2022 Democracy Index, Canada is ranked 12th among the countries with full democracies, the US 30th among countries with flawed democracies, and Mexico 89th among countries with hybrid regimes (EIU 2023, 7-9).

Apart from the trend of democratic backsliding both in Mexico and the US, the CUSMA signatory states still demonstrate the political will to further co-operate and co-ordinate their policy in the field of trade, coping with arising fundamental issues. The supporting evidence of how trade is one of the driving forces behind Canada, Mexico, and the US solving their issues, especially ecological ones, is confirmed by the fact that '[...] intermodal rail enhances the overall mix with a cost-effective, low-carbon emissions option with significant capacity' (Doell 2022, 5). The low-carbon emissions are followed by the decarbonisation process and the Fourth Industrial Revolution. All this noticeably impacts North America as a complex whole with the multi-level system of international relations.

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Ivan DUJIĆ

SLOBODNI TRGOVINSKI SPORAZUMI U SEVERNOJ AMERICI

Apstrakt: Definisanje Severne Amerike kao podregiona Novoga sveta od perioda Hladnoga rata do post-hladnoratovskog perioda veći je problem. Rad se usredsređuje na analizu statusa tri države Severne Amerike od 1980. do 2022. godine. Korišćenjem uporednog metoda, metoda analize sadržaja s pravnog stanovišta i historiografskog i statističkog metoda, rad nudi odgovor na istraživačko pitanje: Da li Kanada, Meksiko i Sjedinjene Američke Države (SAD) podržavaju ideju o Severnoj Americi kao zajedničkom prostoru? Podeljen na dva perioda -pre i nakon 2001, rad ukazuje na značaj dvostranog sporazuma o slobodnoj trgovini Kanada-SAD zamenjenog trostranim Sporazumom o slobodnoj trgovini među državama Severne Amerike koji je uključivao Kanadu, Meksiko i SAD. Nadalje, Sporazum o slobodnoj trgovini među državama Severne Amerike zamenjen je Sporazumom Kanada-SAD-Meksiko kao konačnom verzijom. Sporazum Kanada-SAD-Meksiko stvoren je u godinama sve većeg stremljenja ka slabljenju demokratije u Meksiku i SAD. Zaključak rada temelji se na rezultatima koji se odnose na ovaj podregion Novoga sveta.

Ključne reči: Sporazum o slobodnoj trgovini Kanada-SAD, Sporazum o slobodnoj trgovini među državama Severne Amerike, Sporazum Kanada-SAD-Meksiko, Severna Amerika, Kanada, SAD, Meksiko, zajednički prostor.