Trade and International Information Policy

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Introduction

The histories of trade and information policy, ever mutually inclined, converge in the 1980s debate over trade in services. At this conjuncture of technological, political, economic, and cultural development, the commoditization of information reaches the most extreme and sensitive questions. New organizational forms and multiplication of ways in which societies can be harmonized internationally through the use of information technologies are the transformative yeast as the balance of power between transnational corporations (TNCs) and the nation-state system tips in the "private" direction.

Although many issues are still unsettled, it appears that trade will determine the shape of the emerging international information policy regime,[1] providing key operational definitions, modes of argument, and value hierarchies. As a result, concerns raised in other arenas and under other rubrics, such as the New World Information Order (NWIO) discussion that has taken place primarily within UNESCO, may find their denouement in the world of trade.

This is also a period when institutional and theoretical uncertainty echo each other. Many key concepts of international relations (the context for both trade and information policy) are ambiguous, terms such as "sovereignty," "trade," and "regulation." The intertwined

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[1]Regime footnote.

histories of trade and information policy are explored here as background for an analysis of today's debate over treating international information flows as trade in services, to be treated legally like trade in goods.

The word "services" is among those with myriad meanings. The 1983-84 national studies on trade in services[2] simply listed what industries each country included, with wide variation. Cass and Noam define services as "commercial activities that do not result in production of tangible goods." (1989, p. 4) The formulation offered by THE ECONOMIST seems to be gaining in popularity, serving as definition of choice not only for this author in earlier works, but now by the UN Centre on Transnational Corporations (UNCTC) as well: "Services are anything that can be bought and sold but cannot be dropped on your foot."

Nusbaumer (1987) listed the International Standard Industrial Code (ISIC) numbers for those media-related services being discussed by the GATT: financial services (81); business services, including advertising (8325), legal (8321), and accounting (8322) services; data processing and communication services (8323, 7200); recreational and cultural services (94), including motion picture production, distribution, and projection (9411, 9412) and radio and television broadcasting (9413); domestic and personal services, like photography (9592); sanitary and social and related community services, including education (8130) and research and scientific institutes. Services can be final products or intermediate inputs in the production of other goods or services.

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[2]Explain national studies of trade in services, give cites.

History

From the beginning, international information flows have resulted from, facilitated, and been the stuff of trade. The history of the inter-relationship of trade and information policy takes a variety of forms from era to era, though themes remain constant and echo across the realms of trade, rhetoric, and politics.

US instincts against tariffs on information flows go back a long time; it was the Stamp Act that galvanized the colonies toward revolution. The Stamp Act taxed every type of information flow -- advertising, the printing of forms, etc. -- and so decreased access to information by raising its cost and difficulty. As colonies in the periphery, information was already hard to come by in the North America of the early and mid 1700s, for all commercial information, even pertaining to crop and weather conditions in the Western hemisphere, had to be communicated through London.

1850-1914

The middle of the 19th century saw what may be called the birth of the new information age with the invention of the first electronic medium, the telegraph. Telegraphic information immediately began to flow globally, and very soon both public and private international organizations formed to control those flows. European-based news agencies joined together into a cartel that maintained its global hold until WWI. Each agency had a monopoly at home, a monopoly of news-gathering and distribution in its allotted portion of the world, and an agreement to share news with the others. In the public sector, the International

Telecommunications Union (ITU) was created to deal with technical issues, a role it continues to play today.

For a long time, the US was shut out of both of these groups, in the case of the news agency cartel out of weakness. In the case of the ITU, because the US refused to abide by the organization's rules, permitting AT&T employees rather than governmental appointees to represent national interests. It is an irony of the New World Information Order that, in response to these exclusions, the US first brought NWIO concerns to world attention. In a 19th century attack upon what has come to be called "coups and earthquakes" reporting, the US accused the Europeans of bias in reporting only American Indian wars, racism, and bizarre crimes.

This era also saw the development of the classical theories of international trade and comparative advantage by European thinkers. The international economy was seen as ever-expanding, and cpable of providing prosperity for all according to two principles. First, each nation has a unique "comparative advantage" vis-a-vis others in the international environment, determined by its "factor endowments." That is, there is some way each nation can successfully compete internationally, based on its resources as given. Second, that advantage can only be realized by trading those goods in which one has a comparative advantage internationally. Economists from Marx to Adam Smith saw services as an inferior element of the economy, draining resources without contributing to the production of goods.

At the same time, a kind of free trade was being practiced within the bounds of the British Empire, an early association that has left its

mark in theories of the relationship between hegemonic stability and free trade regimes that still dominate the field. Economies in much of the rest of the world traded along the directions of colonial ties as well. The reality for colonized nations was an outflow of resources in a time when those were defined economically in strictly physical terms. Concurrently, however, there was also an outflow of other kinds of resources with non-economic value -- the cultural, religious, and aesthetic artifacts, both tangible and intangible, that began to influence Western culture during the last century and have continued to do so in fundamental ways throughout the 20th century.

The US, uninvolved in the development of free trade ideas, also maintained an isolationist position in practice, with most of its trade policy during this era emerging from the pork barrel.

1914-1918

With war questions of free flow turned of necessity away from trade and towards, conveniently, rhetoric. The news cartel arrangements were strained by mutual antagonisms, giving the US an opportunity it quickly took to fight for international free flow of information as an opening into the previously closed environment. It was also handy for UPI, newly arrived and looking to international news as a way of competing with AP. Free flow of information played such a large role rhetorically during the war that some actually expected a position on the issue in the peace treaty.

A stimulus to development of free flow theory came with domestic unrest in the US -- much of it from those who opposed UN involvements

internationally -- in response to which First Amendment law underwent its first real flourishing, largely based on traditional libertarian thought.

It was also during this war that governments found use of international information flows for persuasive purposes had a meaningful military effect. Development of information technologies was encouraged during the war as research and development moneys were allotted and priorities assigned. Nationalization of the telephone systems during the war forced interconnection of the previously isolated thousands of then-existing networks, an experience that has been a basis of the US regulatory system ever since. These experiences together increased the interest of governments in control over their own and others information infrastructures.

[DISCUSS THEORY OF COMMODITIZATION OF INFO, GET AP V INS]

1918-1939

After the war, Wilsonian ideals and internationalism took hold of the American imagination, merging nicely with economic goals as it became clear that a larger presence in international communications would be good for American business. [EXPAND DESCRIPTION OF INT TRADE DURING THIS ERA]

This expansiveness stimulated the development of sensitivity to cultural and media imperialism by the 1920s, expressed, for example, in the 1925 appeal by the newly-formed International Broadcasting Union (IBU) to countries not to penetrate other countries' borders with potentially disruptive messages -- an issue that remains key in the 1980s call for a New World Information Order. These capabilities were clearly in the minds of advertisers, who appreciated radio as a "psychic burglar" able to pass

geographical and physical barriers into spaces previously inaccessible to them.

While these concerns conspired towards more regulation of international information flows, the failure of the 1920s tariffs to prevent the Great Depression created a move towards fewer regulatory barriers to trade in goods. To reduce the impact of special interest groups on US trade policy-making, during the 1930s decision-making was bureaucratized and its locus shifted from Congress to the executive branch. With the creation of the Federal Communications Commission (FCC) in 1934, a bureaucracy was created to restrict some free flows of information within the US.

1940-1945

American journalists between the wars continued to press the US government to promote free flow of information, receiving a response that was largely rhetorical. Again, war increased the saliency of the issue, and international freedom of information became identified as a WWII aim. Blanchard ( ) notes that by this point it was clear that the government was interested in all kinds of information flows, not just those of the mass media, in fact annoying the press because it did not get special treatment.

The war of course also greatly stimulated the growth of the information economy by accelerating research and development in related fields, training those who would shape the information industries after the war and developing new management as well as production techniques. The use of persuasion by Hitler and the Fascists heightened sensitivity to

the political and military effects of control over an information infrastructure, but these information flows were generally perceived as quite distinct from trade.

1946-1959

The US-dominated post-war hegemonic formation was very interested in free trade. Though the GATT agreements were designed only as a stop-gap while the more complex Havana Charter, with its sensitivities to the special needs of developing countries, was discussed, ultimately it was the GATT which established the liberal trade regime. With the US seal of death for the Havana Charter, the International Trade Organization went also and with it, in Spero's words, "The potential integration of the concerns of less developed countries in the regulation of international trade . . . ." (1981:184) Thus from the moment the trade regime was established, developing countries were left out of the decision-making process, and their concerns ignored in the decision-making calculus. This problem only got worse as new nations gained their independence.

The realities of GATT implementation did not favor development needs either, for basic provisions institutionalized arrangements that ignored significant differences among countries. The most favored nation principle eliminated the possibility of preferential trading arrangements for developmental purposes, for example, and the GATT rule of reciprocity was problematic for Southern countries with little to offer in exchange for concessions in their favor.

Responses by developing countries to the international trade regime varied, and have changed across time. At one extreme, complete

delinkage is advocated on the assumption that integration into the world economy inevitably leads to disintegration of the national economy.

Within a decade of the GATT's formation, there were efforts to chagne the agreements to better serve development needs. A larger Soviet presence, including a 1956 suggestion for a new, Third World-oriented system, may have added to the motivations.

There were also discussions about service-related issues in other fora. In 1955 UNESCO published a report on "knowledge taxes" that opened with a history of taxes on information flows as an alternative to licensing of the media in repressive political environments. This precursor to some of the NWIO arguments focused on the political and social implications of access to knowledge and listed specific trade barriers, country by country, that UNESCO felt functioned as barriers to knowledge flows.

Meanwhile, research and development on information technologies moved out of the Defense Department, into the private sector, and exploded. As the computer industry began to grow and to converge with communications, economists began to look at the unique charcteristics of information, though largely at the micro-economic level. Generalizations about the role of information in society were gestures towards macro-economic analyses and a general theory of how an information economy works. Economic theory in this area, however, is still developing and the consequences of what gains have been made have not yet been translated into the worlds of international trade in general and of services in particular.

The Hutchins Commission explored the notion of social responsibility as applied to domestic US information flows, beginning to temper the notion of "free" flows with a concept of flows that are, instead, "fair" or "balanced."

The growth in service industries in this period was attributed by economists to the growth of personal income. While the computer industry was developing technologically and beginning to have an influence on production and decision-making techniques in other industries, the impact on the economy as a whole was nascent and not yet recognized.

1960-1980

There was a series of challenges to the GATT structure throughout the 1960s and 1970s. Pressure from developing countries, as well as the political, economic, and humanitarian interest in providing assistance, did generate both changes within the GATT and the formation of the UN Conference on Trade and Development (UNCTAD), but neither was able to bring real change. UNCTAD found it was not easy to maintain a consensus even just among the developing nations. Development-oriented provisions of the Tokyo Round of GATT negotiations during the 1970s were viewed by developing nations themselves as outmoded and/or insufficient.

The ability of the developing nations to affect international trade policy at all rose and fell over this period in direct relationship to the price of oil. LDC strategy began to seek ways to increase Third World leverage by identifying other commodities besides oil of equivalent value internationally, and by asking for one nation, one vote decision-making procedures in international arenas. Theoretically, developing

countries turned towards holistic analyses of inter-related issues, insisting that only such an approach could yield the insights that would lead to a restructuring of the global economy, or a New International Economic Order.

These ideas about bias in the flow of economic resources joined naturally with notions about bias in news and other information flows to yield calls for a New World Information Order, also seen as a necessary prerequisite for a New International Economic Order. At this point, in the mid-1970s, the histories of trade and information policy come directly together.

Original calls for an NWIO mixed references to news and to other kinds of international information flows that constitute services. This confusion reflects only the same theoretical and conceptual difficulties facing all information policy-makers or analysts. What is consistent is the concern for the entire range of international information flow issues.

Concerns about information and trade flows converged at a time when the information economy was coming into its own with the explosion of types and uses of new information technologies. The US first mentioned services in the trade context in the 1974 Trade Act. Around the same time, the EEC decided to emphasize services and began working towards removal of barriers to the flow of services within the Community. By the end of the decade, the EEC had announced its intention to corner 1/3 of the world's market in services, and the US was trying to increase developing country participation in the GATT, the arena in which the US hoped service regulation would be shaped.

The failure of classical development theory, positing progress through a three-sector economy, became evident during these decades. Tentative gropings towards its replacement also failed to incorporate services. By the middle of the 1970s, Porat, Machlup, and others began to offer conceptual frameworks with which to identify and begin to understand the information economy in the simplest terms. There was a great deal of activity in the micro-economics of information, often focusing on questions of interest to telecommunications utilities, but little in the realm of macro-economics. While structural changes in the global economy were beginning to be felt, they were little understood. As comparative advantage began to shift, the notion of comparative advantage itself came to be questioned. Free trade principles continued to hold sway rhetorically, though protectionist actions, sought by labor and management alike, began to be appear. Non-tariff barriers gained in popularity.

1980s

During the Reagan Administration, distaste within the developed countries for NWIO demands lead to US withdrawal from UNESCO. This chilled -- but has not ended -- discussion about an NWIO. For the US, however, this withdrawal was just one of a series of refusals to cooperate with international decision-making bodies; during the 1980s the US also refused to sign the Law of the Sea Treaty, for example, and chose to ignore the World Court when it addressed US activities in Central America.

International harmonization in services, however, rose to the top of the US agenda. They were forced onto the GATT agenda at the November 1982 Ministerial Meeting, with access to the US market and threats to

withdraw from the GATT used as incentives to open the discussion. The issue was not welcomed from the start, with resistance even from US allies in the EEC. Insistent prodding lead only to an agreement to study the matter, leading to a 1983-84 series of national studies on trade in services. Dozens of meetings based on those reports between the 1986 opening of the Uruguay Round and the 1988 mid-term meetings yielded only a detailed description of differences and disagreements over the subject, though talks continue. Trade imbalances meanwhile continue to claim a great deal of the world's attention.

Developed countries claim unfair treatment should services not be included under the GATT, since such a large proportion of most of these economies is currently based on services. The Bush presidency is under a great deal of pressure to perform in trade. The White House has been regaining power in this realm and the use of trade sanctions growing, though it has been shown that such sanctions have more symbolic than coercive value.[3]

The Debate of the Late 1980s

In the late 1980s, trade patterns are shifting as the multilateral system breaks down and political-economic blocs form in its place. Differences among developing nations have become more pronounced, and sub-groups among those economies as well as within developed economies articulable. Today's debate over trade in services can be discussed as it occurs within the GATT, outside the GATT framework, as made manifest in

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[3]Lindsay, 1986.

the Canadian example, and as it has an impact on the media.

GATT Discussions

Today the GATT is exploring the application of specific GATT provisions to services on a sectoral basis. After seven years of talks, there still is agreement only to explore what it would mean to extend the GATT to services, but none at all on whether or not the GATT is actually an appropriate forum for the regulation of international information flows. Though the US has finally persuaded many developed countries to at least go along with the discussions, developing nations[4] are more reluctant. They are generally suspicious that any extension of the GATT will multiply the negative effects already experienced from international trade. LDCs are uncomfortable with the conceptual and theoretical ambiguities surrounding service discussions, fearing they further decrease chances that vague suggestions will be concretized in ways comprehensible within the developing countries' environments. There is a sense that developing countries will again lose out on most of the value that is added when any resource, tangible or intangible, is processed. And cultures around the world are becoming increasingly sensitive to and militant about loss of control over the cultural expressions that both shape their societies and provide outlets for their most personal and important feelings, beliefs, and ideas.

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[4]The GATT now divides countries into three categories: the Eastern trading bloc (the four dragonettes of Singapore, South Korea, Hong Kong, and Taiwan), developed, and developing nations. Often Brazil, India, some of the OPEC countries and/or Mexico are grouped with the Eastern trading bloc as an elite subset of developing countries.

Some of the ways in which LDCs think about trade in services are immediately pragmatic -- there has been nothing since oil that has offered developing countries some bargaining leverage in international trade. A refusal to talk about services until other matters of interest to the LDCs, such as agricultural issues, have been resolved is a bargaining chip.

Another factor is the link between services and non-tariff barriers (such as government procurement codes). These barriers are harder to quantify than tariffs, may arise not just at the border and at the moment of passage but can arise anytime and anywhere, and are often justified in terms of legitimate domestic policy considerations. Since so many barriers to trade in services are of this kind, they immeidately strike close to the heart of these sovereignty and self-determination concerns.

The US does not help here, either, when it flatly refuses to acknowledge any legitimate social or cultural justifications for barriers to international information flows, insisting that all are merely used as cover-ups for economic matters. Nor does it ease the developing countries to hear Geza Feketekuty, then of the Office of the US Trade Representative, say even as a joke that if developing countries are reluctant to accept free trade treatment of international information flows, the US will simply force them to go along.[5] What the US calls harmonization of legal and telecommunications systems is seen by others as

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[5]In response to questioning at University of Chicago Law Forum, etc. complete cite from bibliography.

a significant loss of the ability to operate as sovereign nations in the political, economic, social, and cultural realms.

Failure of the GATT to agree to cover trade in services will, however, further weaken that institution. It has been repeatedly said that if the GATT doesn't want to play, services wil be taken elsewhere so that those who want to play with regulation of services under trade rules can. There have also been threats by the US to actk both within and outside of the GATT, to retaliate against those LDCs that choose not to cooperate with the US effort.

Discussions Outside of GATT

The OECD and UNCTAD have been suggested as alternative institutions for the regulation of trade in services, as has the possibility of forming a new organization altogether. Meanwhile, bilateral agreements, piecemeal harmonization of lregulations, and ad hoc adjustments of tariffs and standards are proliferating. The Treaty of Rome remains the only existing multilateral agreement dealing with services as well as goods.

UNCTAD has been systematically dealing with services for years. In 1986 it identified three key questions: the importance of services in the development process, possible strategies for developing countries in penetrating the world market for services, and analysis of proposals for multilateral cooperation and negotiation. Over 25 countries have tried to answer these questions with UNCTAD's help. From that organization's perspective, an agreement in services must include specific goals in training and research, external financing, transfer of technology,

technical assistance and agreed principles on migration.

Bilateral agreements are proliferating as the multilateral system breaks up into blocs. Many deal specifically with services. Regional agreements, too -- most notably the Europe 1992 plan -- are increasingly emphasizing service issues as a fundament for successful integration in other sectors of the economy and social life. Another layer of international trade policy is created through harmonization of regulations in a piecemeal manner, as is happening, for example, with testing to meet national standards.

The bilateral agreement between the US and Canada is a particularly valuable example because though the country is clearly developed by any standard, many of its concerns about the US-Canada Free Trade Agreement (FTA) are shared with developing countries when faced with the issue of trade in services. The agreement was also claimed to be a model for what the US seeks as arrangements under the GATT.

The Canadian Example

The issue of the trade agreement caused one of the most acrimonious elections in Canada's history in 1988.[6] The stakes were high economically, and a lot had been invested in the campaign by American business interests. Three times previously such trade pacts had been

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[6]The nastiness didn't end with the close of the election, for legislators who had opposed the Free Trade Agreement or not supported candidates who sought its passage were only told at the last minute that the traditional governmental airplanes would not be made available to fly them across the Canadian vastness to their homes for the holidays, leaving them to scramble around airports on stand-by on Christmas Eve. (Burns, 1988c)

rejected by Canadians.

Feelings ran high against the pact even though since World War II Canada has been integrated in many ways with the United States. Eighty percent of Canada's exports, for example, already went to the United States. Police computers, electrical grids, hospital organ transplant programs, and the broadcast media audience were already linked. Still, the need for integration under the FTA was expected to require far-reaching changes throughout Canadian society.

Reagan called the pact his trade high point, ensuring a bloc strong enough to compete with post-1992 Europe. Almost 300 service industries (though not telecommunications) are covered by the agreement, with a commitment to negotiate extension of coverage to others. The GATT has surveillance responsibility.[7]

Some of the Canadian arguments against the agreement were economic, and indeed by mid-1989 tends of thousands of Canadian jobs have been lost. Some were cultural. And some were political, for many Canadians view the agreement as a ceding of sovereignty. Then-US Trade Ambassador Clayton Yeutter did not allay such fears when he made a comment he later tried to deny: "The Canadians don't understand what they signed. In 20 years they will be sucked into the US economy."[8]

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[7]It may be telling that the Canadian ambassador to Washington during the trade talks was one of the earliest authors to write about the legal problems involved with international information flows under the rubric "transborder data flows" -- Alan Gotlieb. [REFER TO GOTLIEB, DALFEN & KATZ CITE]

[8]Dillon, 1988, p. 8.

Some writers think they do understand. Robertson Davies, the Canadian novelist who remembers being told to "Americanize" his plots if he wanted US publication, heard in the debate a very clear statement by Canadians of the importance of non-commodity values to their culture. David Young, representing Canada's avant-garde writing and publishing community, believes the FTA will fundamentally change the structure of the country incrementally over time. Margaret Atwood ended her op ed piece in the Toronto World & Mail by referring to Kierkegaardian despair.

Potential Impact on Media

Should trade in services be treated under the GATT agreements or the trade arena otherwise come to dominate the emerging international information policy regime, there will be both direct and indirect consequences for the media.

Direct consequences will flow from specific application of trade rules to media. Service discussions include talks about international flows of television programming, films, advertising, and other media activities. Application of trade rules in these areas opens up the possibility of retaliation for traditional commercial activities and competition in the realm of ideas and free speech -- that is, a country could potentially choose to respond to a weakened position in agricultural products by restricting journalistic activity. It also serves to further the commoditization process, converting cultural and aesthetic products into items valued solely economically. In general, rather than freeing trade in this area, inclusion of such items under trade rules will simply make more types of restrictions possible.

The indirect influences, however, may be even greater. Telecommunications policy discussions already define "user" in terms of transnational corporations (TNCs) -- a Citibank, an American Express -- rather than in terms of individuals. Inclusion of trade in services under rules designed for trade in goods will encourage the growth and profitability of TNCs and thus increase the degree to which the information infrastructure will be designed, built, and run to serve these corporate needs rather than to meet social, political, or cultural goals. In this way what happens in the service sector of finance, for example, is crucial to the media because the global financial system is such a heavy user of the telecommunications network.

Only film among the many media industries currently seems aware of the importance of trade negotiations to its future and is actively lobbying for a GATT outcome favorable to the needs of American producers. Television networks have begun to attend to trade discussions, but their response has not yet matured. Print newspapers also depend heavily on the telecommunications infrastructure in order to collect and distribute their news as well as relying on unrestricted news-gathering conditions, but don't seem to be paying attention to the trade talks from this perspective, or to have become actively involved in trying to shape what may happen in a media sector. The same is found with other media.

It is not only the media themselves who are saying relatively in these trade talks about the impact on speech and press values, including the notions of balance and fairness as well as "freedom" or openness of flow. US governmental officials and advisers have also neglected to

consider any special needs the media may legitimately have. It is worth noting that bringing the attention to a range of people in Washington, DC, who have been involved in the 1989 trade in services discussions during June of that year registered nothing but amused or shocked surprise in realization that media issues simply had not been considered at all.[9] After the years of talks in international arenas about trade in services issues, this realization must be taken to reflect the non-appearance of media issues in the comments of other countries as well.

NWIO concerns are likely to fair especially poorly in such an environment. The tradition of poor economic treatment of developing countries under international trade agreements combines in the information economy with political and cultural concerns about the impacts of international information flows. The result, some fear, will be a logarithmic acceleration of the negative effects of these international flows. In an environment in which ideas are treated like rubber boots for regulatory purposes and TNCs often outstrip nation-states in effective capability, all three types of power identified by Lukes (1984) -- instrumental, structural, and consensual -- can be exercised by the same TNC.

Areas of Uncertainty

The battle over trade in services, with its import for the shape

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[9]Interviewees included Claude Barfield, who managed a massive research project by the American Heritage Foundation that resulted in a series of seven books on trade in services; Bob Bruce, attorney and author of [GET BOOK TITLE]; and _____ of the Office of the US Trade Representative, who was able to report at that time on sectoral discussions currently underway.

of the emerging international information policy regime, is being carried out on a ground of uncertainty that is factual, conceptual, and theoretical.

Factual Issues

On the statistical level, we know very little about services; the situation is described by Krommenacker as "prehistoric." (1988:457) While to some extent this is an old problem for trade law, whic has had to deal with thousands of new objects invented or commoditized since the 1930s, there are also new problems that come from trying to quantify intangible services. Services data have been submerged in those of the goods with which they have been related, defined and organized differently from jurisdiction to jurisdiction, and often not kept at all. Only in the late 1980s did the US Commerce Department, for example, make a commitment to improve its collection of data on services. As a result, trade and information policy decisions in this area are often made in ignorance.

Conceptual Problems

A number of concepts key to both realms of policy are currently sites of debate. The problematics of several of these keywords are discussed here in alphabetical order.

Constitution. The question of what is meant by a "constitution" is troublesome in an era rife with constitution-writing and -amending. Traditionally, the constitutional act was understood positively, as a means by which a community defined itself. Today, some[10] are defining the

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[10]Including Cass, 1986; E&A, 1989; Hauser, ; Petersmann, 1986; Roessler, 1986).

constitutional act negatively, as a means of defending against those forces that may get in the way. The argument is made that since it is problems with international trade that impede activities today, it is really international trade agreements that must be thought of as today's true constitutions. Other arguments are made as well, including Roessler's (1986) claim that since economic policy-making is simply easier at the international level, that's where it ought constitutionally be placed.

Extraterritoriality. The US is attempting to exchange the concept of "extraterritoriality" for "harmonization." The attempt to apply of national laws outside the geographic boundaries of the rule-making nation-state is in general greatly resented by the receiving parties. There is, unfortunately, a long history of US extraterritorial actions in its international information policy, as when the FCC would tell other countries where to put what kind of underseas cable landing or, more recently, the State Department tell Europeans whether they could move their personal computers from home to office.

Further harmonization of regulations such as those dealing with accounting and finance would occur should trade in services come under the GATT agreements. Many countries are concerned that to permit such harmonization would be to effectively yield sovereignty. The Bush Administration, however, takes the position that the harmonization process is unstoppable, and prefers to refer to such activities not as extraterritoriality, but as "open domestic policy-making procedures." Harmonization is said to simply be more efficient.

Free. The concept of "free" as applied to flows of information and goods has taken seemingly every possible meaning over the past century. Today the definition lies with the interests of each speaker, and so is devoid of any real meaning. For the same reasons, the notions of "fair" and "balanced" -- often opposed to "free" -- are similarly difficult. Rhetoric about information and trade policy must be distinguished from the reality of arrangements actually made.

Regulation. The concept of "regulation" is under attack on a variety of levels. Theoretically, the critical legal studies movement probes the very foundations of legal systems and basic principles. Deregulation challenges the relevance of the concept of regulation in today's environment. Specific regulatory techniques, such as content controls, are currently being criticized as either ineffective, inappropriate, or inequitable. Confusion about what is being regulated (is this trade or not?) or whether or not there is a regulation (are non-tariff barriers "regulation"?) further confound the scene. Cass and Noam (1989) note a particular contradiction in the regulation of trade, for if such regulation is successful, trade becomes more efficient and regulation therefore unnecessary.

The non-tariff barriers of growing importance are far more difficult to respond to because they are often integrally entwined with social, economic, and industrial policies at the domestic level. Such domestic policies are not traditionally the stuff of international consideration, nor have they typically been considered regulation. The myriad of forms of non-tariff barriers makes even more difficult the work

of a policy-maker who attempts to respond.

Sovereignty. A response to extraterritoriality is renewed interest in sovereignty. The notion of "economic sovereignty" -- the idea that borders of nation-states are not most significantly geographical nor political, but largely and most meaningfully economic -- is gaining in popularity. This notion first arose in discussions about the New International Economic Order, and received written form in the Charter of Economic Rights and Duties of States and the Convention on the Law of the Sea. Alternatives to economic sovereignty focus on geographic and political boundaries, and are under attack. The sense of the vulnerability of the nation-state has spread since first articulated in the late 1970s, though in general the notion is unsophisticated, lumping together a variety of types of nation-states and ways in which nation-states can exercise power and ignoring the difference between change to and change within an existing organizational form.

Trade. The intangibility of services is stimulating re-examination of the concept of "trade." It is difficult to determine where services are produced or a service transaction takes place. Because many services are delivered via the international telecommunications network,[11] issues of control over, ownership of, and standards for that network intertwine with questions about services either produced or delivered via

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[11]It is generally accepted that there are four ways trade in services can occur: by resident activities across national borders to non-resident entities abroad; through contractual relationships such as licensing, partnerships, sale of intellectual property, etc.; within national boundaries to non-residents; and through foreign affiliates.

the network. Similarly, foreign direct investment (FDI) is sometimes considered trade, and sometimes not; Petit (1986) distinguishes between "real" and "fictional" trade along these lines.

Theoretical Concerns

Uncertainty about the new -- how to theoretically understand the new information economy -- and dissatisfaction with old ways of regulating trade and information flows combine to shape the theoretical questions plaguing discussions about trade in services.

Development theory, for example, has not only failed to reflect or predict real-world situations, but it speaks to a category that is less and less distinct as the line between developed and developing countries becomes, in Sjostadt and Sundelius's word, "diluted."[12] This body of theory has not yet found a way of dealing with either social innovation or technological change, lumps together significantly different types of economic activity, and still views services as low productivity. As a result, Belgium has come to be called a developing country because it has no software industry, and the UK because it cannot maintain full employment.

Caporaso wrote in 1987 that "modern interpretations of the international division of labor are extremely confused," (p. 1) and then went on to offer a definition of labor that for the first time doesn't exclude services: "activity of a physical or mental sort intended to produce wealth." (p. 5) Ideas about labor value will have to come to

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[12] 1986:15.

terms with the importance of creativity in an information economy, but labor theorists who do deal with the impacts of technological change today seem largely focused on the loss or geographic relocation of traditional employment rather finding ways of appropriately valuing "information" labor in the new environment. Nusbaumer suggests qualitative measures will come into play under new theories of labor value that will be part of a general shift in economic paradigm forced by the need to understand trade in services.

Some types of value inhere in services but not in goods. Cass and Noam (1989) identify a services-specific value of mobility, referring to the efficiency gain from performance of a given activity at a particular site rather than elsewhere. They also, however, take the position that there is no meaningful difference between goods and services, arguing that supply and demand work the same way in both. The Gibbs and Mashayekhi view of such approaches is that, "Certain scholars have strained both their imaginations and credibility in this context . . . ." (1988, n. 3, p. 82) The question of whether and how to distinguish goods and services is significant theoretically, for regulatory purposes, and in the concrete ways in which industries and organizations are established.

Classical trade theory also fails to take into account changes in structural arrangements or the centrality of information in today's economy. The nature of comparative advantage has shifted; natural resources are no longer the primary determinative factors. Instead, control over knowledge and sophistication in the use of information processing in the production and distribution of physical goods determine

comparative advantage now, something Nusbaumer notes is an institutional (not nation-state) characteristic, based on strength in research and development and management.

The economy as a whole is no longer seen as ever-expanding. Rather, it is understood to be a zero-sum game, with the players hierarchically ranked. Classical trade theory is accused of failing to take into account gross differences among nations in terms of market and political power, exercise of a variety of types of power by TNCs, and modes of production.

A computerized analysis of alternative theories found that world system theory is a better predictor of actual trade concentration.[13] Another simulation[14] compared a moderate version of an alternative trade theory popular among developing countries (with an emphasis on concessionary tariffs) with a radical alternative, also still on the table, that called for delinking. This study found that the development objectives of the two approaches incompatible, partial delinking seems to reinforce the existing division of labor while greater engagement seems to lead to changes in the division of labor, the benefits to the South under either scenario are not equally distributed, and, of course, policies which benefit the South under either scenario have costs for the North.

Meanwhile trade policy itself is generally considered to be heavily dependent on its past and likely to become more restrictive when,

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[13]Dixon, 1985.

[14]Pollins, 1985.

as in the case with services, incapable of solving recurring problems.

Conclusions

This historical conjuncture is characterized by the convergence of several interactive vectors. Real-world events stimulated and reflected theoretical growth to differing degrees in the areas of international trade policy, expansion of the information economy, and development. Trade over time has become increasingly articulated and sophisticated in the range of techniques, tariff and non-tariff, available. The ability of a trade regime to endure, however, seems closely tied both to power relations and economic circumstances. When the power of a nation-state or region is being challenged, trade is one area in which offensive and defensive actions are taken. Concerns other than those of the dominant powers -- such as those of developing nations since WWII -- tend to have impact only when the economic hand of LDCs is strong. Thus, during periods when oil was king, there are institutional, rhetorical, and financial reflections of an interest in the needs of developing countries, an interest that seems to die off for various reasons during other periods.

While today the intellectual underpinnings of free trade theory are far from intact, it may be that pragmatic political and economic concerns weigh more in the trade policy decision-making calculus than theoretical nicety. On the other hand, this moment of theoretical ambiguity may be turned to advantage, for it can be used to shape the discussion and decisions to come in new ways; ambiguity and confusion can yield a Kuhnian paradigm change. This is the challenge for today's

theoreticians.

Proposals

For researchers. It is clear that there are a number of areas in which the results of research have an immediate and high demand. The macro-economics of information in general, and as applied to international trade in particular, needs to find a way of adequately coping with today's realities. Micro-economics, too, needs to further develop its tools for valuing information and information labor in ways that more accurately reflect the range of types of value of clear importance to people around the world in both developed and developing nations.

The methodologies of cultural studies have advanced so significantly both in their sophistication and in their general acceptance within academia over the past decade, that it is time for those theorists, as well, to turn their attention to operationalizing ways of determining cultural value in ways that permit their inclusion in decision-making calculi used by economists. Irrespective of one's desires, economists aren't going to stop using mathematical models, nor are they going to cede their central role in policy-making to humanists of any stripe. The challenge, therefore, is to find a way of translating the concerns of cultural studies and other types of critical communication research into terms that fit within the modes of argument used by economists and other policy-makers.[15] Cycles of stories are the encyclopedias, dictionaries,

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[15]Even the FCC uses cost-benefit analysis to determine its position on issues as significant as whether or not the marketplace should be able to determine radio formats rather than defining the diversity of voices through regulatory interference. Though citizens' groups took the FCC

and atlases of oral cultures who have processed that information for thousands of years by thousands of people. Surely such stories are as a result quite valuable in today's information economy terms, which focus on the value-added with each stage of information processing. Lewis Hyde points to the gift value, in which things, including information, are only valuable if given away. Jorg Becker points to the poverty of cultural groups in developed nations that deprive themselves of access to cultural products from others, arguing that the long-run cost is greater for those on the developed end. These and other forms of value need to be articulated, quantified, and made irresistible to policy-makers.

Because almost no one has been thinking about it, we know very little about the potential impacts of trade regulations on the media, and policy research needs to be done in this area.

Finally, comparative research needs to find ways of understanding the very different meaning of different elements of the new information infrastructure and its uses to cultures around the world.

For the media. In addition to trying to understand current and long-term impacts of trade regulations on their activities, the media ought to be insisting upon a sectoral approach in every multilateral or bilateral treaty that deals with services, with specific identification of and distinctions between the various media incorporated into agreements. Thus, while within the GATT framework it has been agreed to go forward in

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over the issue, ultimately the legal question was whether or not the FCC should be permitted to use cost-benefit analysis in making decisions of such great social importance, and the Supreme Court decided, in FCC v WNCN, [GET CITE] that it could.

the study of trade in services sectorally, no one yet has distinguished the media sectors for examination of their specific needs. The same argument and presence need to be there with each bilateral agreement and in other multilateral fora. Here the film industry appears to be a leader and almost the only media player to date.

For developing countries. Policies suggested for developing countries at this point still range from attempts at complete integration with the world economy in traditional terms to calls for complete delinkage. Conditions among developing countries, of course, vary widely. Those newly industrializing countries (NICs) like South Korea and Brazil that have chosen to define their comparative advantage in the terms of the new information economy have had the steepest development curves.

For several reasons, this approach makes some sense. First, the process of global integration itself seems irreversible and so pragmatism urges identification of a niche within the evolving world system. Second, the same information infrastructure that is used to deliver and produce services provides intermediate inputs of the most crucial kind into the manufacturing and production of physical goods as well. Thus even those developing countries who continue to choose to focus on traditional economic sectors have it in their interest to support the development of the global infrastructure. And last, the range of possibilities within the new information environment should mean that, with the development of new modes of assigning value that are more sensitive to cultural concerns, there should be ways for most societies to identify a niche within the global information economy that is not uncomfortable in cultural terms.

Certainly the chances of finding such spots is greater the earlier the effort is begun. This is particularly the case when the decision-making realm is one of such uncertainty. Right now it isn't known who is going to regulate trade in services, or if it is to be regulated at all, or what regulation is in the first place.

Historical conjunctures of great ambiguity are also moments of potentiality. This moment of institutional, conceptual, theoretical, and political instability may offer an opportunity to articulate positions within the new information economy that will serve developing countries' needs, and at the same time take an active role in shaping that environment.

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