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## PANEL DISCUSSION: THE LOOSE THREAD OF NAFTA\*

MODERATOR: RAYMUNDO GIL RENDÓN\*\*

PANELISTS: LLOYD DAY AND JORGE MOLINA LARRONDO

**RAYMUNDO GIL RENDÓN:** I will ask the three panelists to come to the table because we have a roundtable of questions. I will explain why we have only one Mexican and two Americans. That was because Mario Aguilar, the representative of the National Commission of Aguacultura and Fisheries for Mexico, was not able to attend. We want to be very fair, and discuss in equal terms. I invite the audience to ask any questions that you may have.

**ROLAN PELLETIER:**<sup>1</sup> I have a question for Mr. Molina and Mr. Day. According to Mr. Day's presentation, the NAFTA has been good for two countries. Who are the losers in Mexico and the U.S.? I suppose that according to Mr. Molina's presentation, the most profitable companies in Mexico are the ones that have high technology and foreign participation.

**LLOYD DAY:** I will try to answer that and I am not going to answer which sectors are winners and losers. I think you can look at the numbers and you will know that. What the press has been discussing, mostly in Mexico, but also in the United States, is that poor Mexican farmers are the losers. Our argument is that poor Mexican farmers are not the losers because of international trade or because of NAFTA. They are the losers because of a number of structural conditions. It is very easy for folks to say NAFTA is bad because, for example, Mexico is importing all this corn. There was an Oxfam report and a *New York Times* article about that report which dealt with corn.<sup>2</sup> That report was totally wrong. It used bad data, old data, and emotional arguments to say that U.S. corn exports to Mexico are creating misery among rural farmers in Mexico. That is not the case at all. What the United States exports to Mexico is yellow corn, which is used for animal feed for the beef, pork, and poultry sector in Mexico.<sup>3</sup> These sectors have been growing tremendously because of the rising incomes in Mexico. The white corn that we export to Mexico makes up for when there might be a lack of supply to meet the huge demand for white corn. White corn is a staple product – sometimes it is up to 40% of the income spent by rural people for food.<sup>4</sup>

So it is hard to say who is going to be a winner and who is going to be a loser. There are many commodities in my home state of California that are being impacted by productive Mexican agriculture. These include tomatoes, asparagus, broccoli, and cantaloupes. But many of those firms have also invested in Mexico to try to enhance binational trade. I do not want to get into the winners and losers. I just think that a lot of the arguments saying that NAFTA is responsible for rural poverty

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\* The views expressed here are those of the panelists, and should not be taken to represent the views of their employers or other organizations with which they may be affiliated.

\*\* A summary of the panelists' background appears on the last page of the panel discussion.

1. Lic. Roberto Rolan Pelletier Barberena, Goodrich, Riquelme y Asociados, Col. Cuauhtemoc, México, D.F. 06500.

2. For more information on OXFAM see <http://www.oxfam.org.uk/> (last visited April 5, 2004).

3. WASH. TIMES, *Mexican Corn Comes A Cropper*, Sept. 9, 2003, available at <http://www.globalexchange.org/countries/mexico/1047.html> (last visited April 5, 2004).

4. *Id.*

in Mexico are wrong. It is due more to land fragmentation, property rights and historical matters than to NAFTA.

**JORGE MOLINA:** The question touched on a couple of issues. The first issue is foreign investment in the agriculture sector; the second is what is happening with trade in the agricultural sector. Regarding foreign investment, basically, the numbers that I showed represent 1% of the total foreign investments in Mexico, which means that it is really not that much. I did not try to imply that the winners were the ones who had technology. Rather, the companies that produce foods, like *La Huerta* and *Gigante Verde*, those who have not just the raw product, but who have frozen or canned presentations, are the ones who are being better received. It is not just trade.

Actually, I was talking with José Artiaga, the owner of *La Huerta*, and he was telling me that he thinks that the main reason that they have been so successful is because they target the working population in the United States. They are presenting food already in bags, which you only throw into the microwave. So if a woman or the couple both work, they do not have to spend that much time in the kitchen. That has been a key for success for them. I sincerely believe the Free Trade Agreement is being made the scapegoat when there are much deeper and more serious problems. If you read the so-called *Acuerdo Para El Campo* (Accord for the Countryside), you see clauses on housing, social development, education, infrastructure, credits—things as detailed as getting subsidies on electricity rates and diesel.<sup>5</sup> If you see what they are offering in terms of NAFTA and other free trade agreements, and what they are asking in other areas, I really believe that there is really nothing very new regarding NAFTA. They are saying they want to be there when we make decisions and they want to be included into the development of standards and technical regulations, which in the *Ley Federal de Metrología* (Federal Law for Measurements and Standards), they already can. The committees are open, so I think there is a lot of lack of knowledge. It is also that NAFTA is becoming a sounding board for other problems as well.

**JOHN STEPHENSON:**<sup>6</sup> John Stephenson from Dallas. I have a client that's investing in the Mexican cattle industry and providing technology to it also. What is the effect meat exports from the United States on the Mexican cattle industry and its growth or lack of growth?

**LLOYD DAY:**<sup>7</sup> I am always encouraged when I hear about folks who want to invest in every sector in Mexico because that helps to further deepen the economic integration among all three countries, and the beef sector is one of the most integrated sectors. We import a lot of Mexican feeder cattle; we import tons from

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5. *Acuerdo Para El Campo*, available at [http://www.economia.gob.mx/pics/p/p2/Acu\\_Nac\\_Campo.pdf](http://www.economia.gob.mx/pics/p/p2/Acu_Nac_Campo.pdf) (last visited April 5, 2004).

6. John M. Stephenson is a partner in the Business Transactions section and a member of the Energy Practice Group of Jackson Walker, Dallas, Texas.

7. Lloyd C. Day is Special Assistant to the Administrator, Foreign Agricultural Service, United States Department of Agriculture (USDA), Washington, DC.

Canada.<sup>8</sup> Mexico has not been impacted terribly by the BSE finding in Canada.<sup>9</sup> The fact that your client is going to Mexico to invest, and hopefully improve some of the productive capabilities of a particular ranch, is outstanding. I think there is a huge market for beef in Mexico and it will continue as long as the Mexican economy is strong. The Mexican economy will remain strong by continuing to be an open and competitive economy.

**DAVID SPENCER:**<sup>10</sup> I wanted to follow up on the comment about the structural situation in the Mexican countryside. The last time I checked the statistics, which was probably two or three years ago, over 40% of the workable land in Mexico was in the hands of *ejidos*.<sup>11</sup> I am always on the lookout for success stories of cooperation between *ejidos* and foreign investment, or amongst themselves even, to become players in these industries. I'm wondering if you know of any that you could share with us?

**MOLINA:** The first one that comes to mind is the Association of Coffee Producers in Chiapas. These are people with very little land, similar to what you are describing. They have not only got together in order to produce, but they have become entrepreneurial enough in order to export. They started exporting, if I recall correctly, back in 1996. That's the best success story that I know of.

**DAY:** I think one of the fundamental problems that a lot of these *ejidos* have is that their link to the market is through some middleman. Often, especially in southern Mexico, they label this middleman as a *coyote*.<sup>12</sup> Under the Partnership for Prosperity, the United States is trying to help link the Mexican market directly to potential U.S. buyers.<sup>13</sup> Other products considered under the Partnership are cacao, oregano, and palms. The United States has met with different farmers from different commodities that have combined in a multi-state cooperative with *ejidos* and small producers to leverage the value of size, as we have done in the United States. The United States has many farming cooperatives that leverage each other's resources in order to sell into the market. We would encourage folks to do that, but again, the issue of land fragmentation and property ownership is one of the single most

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8. See Cattle-Fax, USDA Data Page, available at <http://www.cattle-fax.com/data/> (last visited April 5, 2004).

9. BSE or "Mad Cow Disease" is a progressive, fatal disease of the nervous system of cattle. It is what is known as a transmissible spongiform encephalopathy (TSE). Other TSEs include scrapie in sheep, chronic wasting disease in deer and elk, and Creutzfeldt-Jakob disease (CJD) in humans. Although the exact cause of BSE is unknown, it is associated with the presence of an abnormal protein called a prion. There is no treatment or vaccine currently available for the disease. See Canadian Food Inspection Agency, Bovine Spongiform Encephalopathy, available at <http://www.inspection.gc.ca/english/anima/heasan/dismala/bseesb/bseesbfsse.shtml> (last visited April 5, 2004).

10. David Spencer is an attorney in Washington State.

11. Common or public land. See The Nature Conservancy, The Ejidos, available at <http://www.lastgreatplaces.org/SanPedro/ejidos2.html> (last visited April 5, 2004).

12. Coyotes (intermediary buyers) often erode the economic return of coffee for isolated producers. See Organic Consumers Association, Voices of Coffee Growers in Chiapas, available at <http://www.organicconsumers.org/chiapas/coffee-chiapas.cfm> (last visited April 5, 2004).

13. Office of the Press Secretary Fact Sheet, U.S.-Mexico Partnership for Prosperity, available at <http://www.state.gov/p/wha/rls/fs/8919.htm> (last visited April 5, 2004).

difficult problems that Mexico has to confront. Unfortunately I do not have many success stories to share.

**MIGUEL JÁUREGUI ROJAS:**<sup>14</sup> I would love to hear from you the word “agreement” because there is more need of cooperation between the two countries to solve these problems. Trade has all kinds of problems and casualties. These casualties we cannot avoid, but what we can do is cooperate.

I want to ask a question. I am interested in the market problems. I know it takes a lot of effort and understanding of the balances in the two markets. The United States has a very strong core market. I have been there and I noticed what the imbalance is due to. So what are you doing, as a government, to balance that problem? Just recently, you set up a quota of 10,000 tons for sugar conditioned on the elimination of the tax on soft drinks with fructose. What is the future for that agreement? Is there going to be cooperation? Lobbying? More discussions? Is there any future to arrange this market? There is a lot of interest in Mexico on that topic.

**DAY:** Sure, as there is in the United States as well. First, I do appreciate your comment that there are people that are impacted. There have been many people in the United States impacted by trade, not just NAFTA, but trade from around the world. Blue collar, middle class Americans have lost many assembly jobs, good jobs, to trade from around the world. Mexico is now starting to feel that as the *maquiladora* sector is reeling from competition from Asia because folks there work for a dollar a day, or less. We are very sympathetic and the philosophy for the past four administrations in the United States, and even here in Mexico, has been that the opening of the economy to competition is beneficial for all sectors. We need to work to improve the education of all our citizens so that they have opportunities to take advantage of a more open market place. We do appreciate the fact that some people are impacted and do not adjust, and our hearts go out to them.

On the sugar and sweetener market, in particular, competition has been going on for years. There was no real NAFTA agreement on sugar because the United States did a side letter after the agreement had already been struck, and Mexico never signed it. There have been negotiations going on since I have been at the U.S. Department of Agriculture. Most of those negotiations are between our industry, the United States Trade Representative, the Mexican industry, and *Economía*. At the end of 2002, negotiations got fairly close to some kind of an agreement. Then it got bogged down as all the other things happened around NAFTA, and no agreement was reached.

2003 is kind of interesting because Mexico is not producing enough sugar to meet demand and CANACINTRA and others have lobbied the Mexican government to import about 112,000 metric tons of sugar, mostly from Central America.<sup>15</sup>

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14. Lic. Miguel Jáuregui Rojas is a founder and member of the firm of Jáuregui, Navarrete, Nader y Rojas, in Mexico City.

15. CANACINTRA is Mexico's most prestigious multi-industry trade association with 80,000 corporate members and 80 regional chapters throughout Mexico. The organization is equivalent in size and influence to the US National Association of Manufacturers (NAM). See Greenberg Traurig LLP Company Press Release, CANACINTRA Visits Denver to Promote Colorado-Mexico Business (2001), available at <http://www.gtlaw.com/pub/pr/2001/canacindra01.htm> (last visited April 5, 2004).

Mexican sugar producers are protesting that importation, but Mexico is importing in order to bring sugar prices down so that their sugar-containing product industry, like *maquiladoras* that ship Nestle's chocolate to the United States, have the ability to do that. What is interesting though, is that the soda tax that was put in place, which we all know is illegal, has also almost destroyed the Mexican high-fructose corn syrup producers. Their industry is now reeling. If Mexico were to lift that tax and the corn syrup could be used for Mexican soda production, it would allow for a surplus of sugar in Mexico, which then could be exported into the United States market once an agreement is reached.

### BIOGRAPHICAL SUMMARIES

**Dr. Raymundo Gil Rendón** es Doctor en Derecho con mención honorífica por la UNAM. En esta misma institución realizó sus estudios de Especialidad y Maestría en Derecho Constitucional, Administrativo y Amparo y la licenciatura en Derecho. Su actividad docente data desde 1979, ha dado clases dentro del sistema ITESM y en la UNAM desde el año 2000. Actualmente funge como Director de las Maestrías de Derecho y Derecho Internacional (MDP y MDI) de la EGAP Campus Ciudad de México (CCM). Es Investigador Nacional Nivel I, desde Julio del 2002 Conacyt. En el área no académica litigó en el D.F. y Aguascalientes. En este mismo estado ha sido Visitador General de la Procuraduría General de Justicia del Estado en el año de 1992; Presidente del Consejo Estatal de Participación Ciudadana (Coordinador de los Organismos Empresariales); y Asesor Jurídico del Gobierno del Estado y del Senado de la República. Trabajó en el área jurídica para los Bufetes Corporativos; Baker & McKenzie, Chicago, Ill. U.S.A., (1978) Consultor de Derecho Mexicano y Latinoamericano; Industrial Minera México (1979). Fue Asociado de los Bufetes Jurídicos : Rocha & Hegewisch (1972-1975); Bracho, Ruiz y Cepeda (1976-1977); Goodrich y Riquelme (1979); Barrera, Siqueiros y Torres Landa (1980); Socio titular de la firma : Gil, Bernal, Sutti & Abogados (1981-2003). Dentro del Derecho Administrativo, Penal, Constitucional y de Derechos Humanos: Trabajó como asesor del C. Presidente del Comisión Nacional de Derechos Humanos en 1996. En el año de 1993 fue Director General de la Segunda Visitaduría de esta misma institución. Un año después trabajó como contralor interno y durante el período 1995-1996 fue Director General de Administración. Fue Coordinador del Programa de Unidad Contra la Violencia, con el Instituto Tecnológico de Estudios Superiores de Monterrey. Actualmente es Coordinador de la Comisión de Derechos Humanos de la Barra Mexicana, Colegio de Abogados.

**Lloyd C. Day** is a Special Assistant to the Administrator, Foreign Agricultural Service, United States Department of Agriculture (USDA), Washington, D.C. 20250. Lloyd Day is responsible for coordinating the Department's Mexico-related activity in the areas of foreign trade, the environment, and the Partnership for Prosperity initiative established by President George W. Bush and President Vicente Fox. Before joining USDA, Mr. Day served as the Deputy Secretary of the International Trade and Investment Division of the California Trade and Commerce Agency. In this capacity, he served as the leader for the State of California's export promotion, foreign investment, and international trade policy activities. This

included managing the state's foreign offices as well as domestic offices for trade policy, export development, export finance, foreign investment, and California-Mexico affairs. Mr. Day received a bachelor's degree in international relations and a master's degree in Russian and East European Studies from Stanford University. He has also received a master's degree in modern history from Glasgow University in Scotland as the recipient of a Rotary International Graduate Fellowship.

**Jorge Molina L.** is General Manager, JML- Strategic, Market & Government Advice, Colonia Granjas Navidad/Cuajimalpa, México, D.F. 05210. He is an international consultant specializing in strategic studies, international trade, direct investment, and government communications. Mr. Molina served for several years at the Mexican Secretariat for Trade and Industrial Development, where he helped design the general negotiating strategy of NAFTA and several other free trade agreements. He was Chief Negotiator on Technical Barriers to Trade, leading the negotiation, implementation, and dispute settlement of technical barriers for the NAFTA, WTO, APEC, and other free trade agreements. He was the Technical Secretary of the NAFTA Environmental Cooperation Agreement, and he was responsible for NAFTA-related issues at the U.S. Congress and the Canadian Parliament, and for the political assessment of trade negotiations in Latin America. Mr. Molina is a faculty member of the Public Administration Graduate School of the *Tecnológico de Monterrey*, where he teaches economic diplomacy and public policy. Mr. Molina graduated magna cum laude in economics from the *Instituto Tecnológico Autónomo de México*; has a masters in public policy with distinction from Georgetown University, and studied for a Ph.D. in political science and international business at Indiana University.