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North American Economic Relationship from the Canada-United States Auto Pact to the Security and Prosperity Partnership: Public Perceptions and Economic Realities

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THE NORTH AMERICAN ECONOMIC RELATIONSHIP FROM
THE CANADA-UNITED STATES AUTO PACT TO THE
SECURITY AND PROSPERITY PARTNERSHIP: PUBLIC
PERCEPTIONS AND ECONOMIC REALITIES

Session Chair – Daniel Kolundzic
Canadian Speaker – Birgit Matthiesen
United States Speaker – Paul Storer
Canadian Speaker – Nikita Nanos

INTRODUCTION

Daniel Kolundzic

MR. KOLUNDZIC: In his welcoming remarks last night, Dan mentioned that the first thing he learned from Henry King, when he took over direction of the conference, was that the conference was intended to be forward-looking. Our first panel will hopefully set the tone for the conference as forward-looking. In order to be forward-thinking, one needs to first get a sense of where we are and where we have been. The panelists, from what I gathered after looking over their presentations, will focus on where we came from, where we are, and where we should go. Without further ado, let me introduce Birgit Matthiesen.

CANADIAN SPEAKER

Birgit Matthiesen^{*}

MS. MATTHIESEN: My name is Birgit Matthiesen, and for those of you who may not know me, I am with the Canadian Manufacturers and Exporters Association.¹ I worked with the Canadian Embassy in Washington, D.C., for many years, in the Economic and Trade Policy Division.² I see an awful lot of friendly faces in the room, including Mr. Brereton, Mr. Noble, and former colleagues of mine, and I am very happy to be in the same room with you all again.

I was asked to give you the Canadian private sector view of where we have been and hopefully where we are going. I like the title of the panel, because I think it identifies some of the key economic timelines experienced since the Auto Pact,³ and those same timelines that will be a challenge to us as we move forward. The question for this panel, and particularly for members in my association right now is, “are we moving forward?” Especially, when we are concerned in 2009 about issues, like when Chrysler may be going down the tubes in Canada,⁴ that GM might be declaring bankruptcy,⁵

^{*} Mrs. Matthiesen is currently the Senior Advisor, United States Government Relations, to the President for the Canadian Manufacturers and Exporters Association. Prior to her appointment to the CME, Mrs. Matthiesen was on staff at the Embassy of Canada in Washington, D.C. in the Economic and Trade Policy Division. Before Washington, Mrs. Matthiesen worked for the Canadian Employment and Immigration Commission where she held numerous positions, including the refugee review directorate. Her career, however, began as a Canada Customs inspector on the border between Vermont and Quebec. In November 2008, she co-authored a strategic border management report entitled: *A New Bridge for Old Allies* – a collaborative work with former Canadian Ambassador Michael Kergin on behalf of the Canadian International Council. Mrs. Matthiesen is a graduate of Dawson College and Concordia University, both of Montreal and received her Master’s Degree at Virginia’s George Mason University in International Trade Policy.

¹ See Canadian Manufacturers & Exporters, CME President Jayson Myers and US Advisor Birgit Matthiesen (May 4, 2009), <http://www.cme-mec.ca/national/media.asp?id=1415> (last visited Sept. 16, 2009).

² See Canada United States Law Institute, Panelists - Biographies, http://cusli.org/conferences/annual/annual_2008/bios/matthiesen.html (last visited Sept. 16, 2009).

³ See Canada-United States Auto Pact (1965), http://www.canadianeconomy.gc.ca/english/economy/1965canada_us_auto_pact.html (last visited Sept. 16, 2009) (outlining the history of the Auto Pact).

⁴ See *Chrysler Threatens to Pull Out of Canada*, WASH. POST, Mar. 13, 2009, at D03 (explaining the potential loss of Chrysler’s production in Canada).

⁵ See Bill Vlasic & Nick Bunkley, *Obama is Upbeat for G.M. Future on a Day of Pain*,

that there are supply chain and delivery problems in Tier II and Tier III in the auto supply.⁶

We all know the story, Henry Ford, probably with one of his cars here on the floor, opened up his first plant in Windsor, Ontario,⁷ and the integration of the cargo and assembly supply chains led us to the Auto Pact signed in 1965.⁸ That was the transformational change between our two economies. Companies became integrated,⁹ and supply chains became mature,¹⁰ dedicated to a production shift.¹¹ Then we saw other industrial sectors follow of the same business model, particularly the electronics industry¹² and the Agricultural Food industry.¹³

Then we moved away from the Auto Pact, because we realized that the Free Trade Agreement worked well and reduced our tariffs.¹⁴ Then, in 1994 we said, "Oh my gosh, United States and Mexico signed the North American Free Trade Agreement (NAFTA), let us get onboard with that," so we signed NAFTA.¹⁵

Many of my members think when they look back that the NAFTA was the best of times, because the border costs and border issues were so much simpler. Yes, the average tariff was about three percent,¹⁶ but for the most part the biggest hassle crossing the border was the three percent tariff,¹⁷ a

N.Y. TIMES, June 2, 2009, at A1 (describing General Motors' bankruptcy proceedings).

⁶ See Kendra Marr, *Small Auto Suppliers Seek Help in Wake of Giants' Woes*, WASH. POST, May 14, 2009, at A13 (describing challenges Tier II and Tier III suppliers face).

⁷ See Canada-United States Auto Pact (1965), *supra* note 3.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ See Dimitry Anastakis, *Between Nationalism and Continentalism: State Auto Industry Policy and the Canadian UAW, 1960-1970*, LABOUR/LE TRAVAIL, Sept. 16, 2009, available at <http://www.historycooperative.org/journals/lt/53/anastakis.html>.

¹² See TIM STURGEON, INTERNATIONAL MOTOR VEHICLE PROGRAM GLOBALIZATION RESEARCH PROGRAM FISCAL YEAR 1999 SUMMARY REPORT 10 (1999), available at http://dspace.mit.edu/bitstream/handle/1721.1/1403/Globalization_Summary_2.pdf (comparing the auto industry's export-oriented strategy to the electronics industry).

¹³ See Colin A. Carter, Presentation at the Giannini Foundation Workshop on Doha, NAFTA, and California Agriculture: Freer Trade and Canada-US Agricultural Trade Disputes: Implications for California Agriculture (Jan. 13, 2006), available at http://giannini.ucop.edu/Carter_GF_conf.pdf (discussing the integration of the agricultural industry).

¹⁴ See Blayne Haggart, *Canada and the United States: Trade, Investment, Integration and the Future* (2001), <http://dsp-psd.tpsgc.gc.ca/Collection-R/LoPBdP/BP/prb013-e.htm> (last visited Sept. 16, 2009).

¹⁵ See North American Free Trade Agreement, Can.-Mex.-U.S., Dec. 8-Dec.17, 1992, 32 I.L.M. 605.

¹⁶ See DENNIS POHLMANN, THE ECONOMIC IMPACT OF NAFTA ON MEXICO 1 (2007).

¹⁷ *Id.*

couple of border fees,¹⁸ and some brokerage fees.¹⁹ Further, these hassles were essentially transparent, you could calculate them, see them, and transfer the costs.

During the 1990s the border environment changed. We had huge deficits, especially in the United States,²⁰ and there was a new move to recoup cost recovery and inspection fees through the private sector.²¹ Therefore, border fees became a bottom line additional cost, like a tax on our production chain.²² Then in 2001, after September 11,²³ security trumped trade.²⁴ Now it is 2009 and security still trumps trade. “Risk management” was and is the new code word for the border, which means the private sector has to assess risk.²⁵ Border agencies need more information and data about us, and it was the requirement for more data that intruded into our production chains and suppliers from all over the world. Further, that data needs to be sent to border agencies quickly and electronically. “Risk Management” means more inspection fees,²⁶ which mean more inspections and more inspectors, which in turn, from our point of view, means even more inspection fees.

In 2005, the Security and Prosperity Partnership of North America (SPP) was created.²⁷ It was the first, substantive effort that brought us closer to the

¹⁸ See Matthew Nolan, *At the Border, Fees are Hurting Trade*, LEGAL TIMES, Feb. 23, 2009, available at <http://www.arentfox.com/email/nolan/Nolan%203-23-09.pdf> (discussing the impact of border fees).

¹⁹ See U.S. Commercial Serv. Can., <http://www.buyusa.gov/canada/en/customsbrokers.html> (last visited Sept. 18, 2009).

²⁰ See MARC LABONTE & GAIL MAKINEN, CHANGING CAUSES OF THE U.S. TRADE DEFICIT 2 (2004), available at <http://www.au.af.mil/au/awc/awcgate/crs/rs21951.pdf>.

²¹ See e.g., U.S. Dep’t of Agric., Questions and Answers: Agriculture Inspection and Agricultural Quarantine Inspection User Fee Requirements for Canada (2007), available at http://www.aphis.usda.gov/publications/plant_health/content/printable_version/faq_canadian_user_fees.pdf (explaining how the user fees allowed cost recovery).

²² See THE CANADIAN CHAMBER OF COMMERCE, FINDING THE BALANCE: REDUCING BORDER COSTS WHILE STRENGTHENING SECURITY 5 (2008), available at <http://chamber.previewsite.ca/images/uploads/Reports/finding-the-balance.pdf> (discussing the burden North American companies experience when faced with border fees).

²³ See NAT’L COMM’N ON TERRORIST ATTACKS UPON THE U.S., THE 9/11 COMMISSION REPORT 1-14 (2004) (outlining the terrorist attacks upon the United States on Sept. 11, 2001).

²⁴ See Barbara Yaffe, *Canada-U.S. Trade Yet to Recover From 9/11 Damage*, VANCOUVER SUN, Sept. 11, 2009, available at <http://www2.canada.com/vancouvernews/story.html?id=a6e853d9-e9a9-465a-a8ea-40597c120f3e> (last visited Sept. 16, 2009).

²⁵ See Treasury Bd. of Can. Secretariat, Canada Border Services Agency, http://www.tbs-sct.gc.ca/rma/dpr1/04-05/BSA-ASF/BSA-ASFd4502_e.asp (last visited Sept. 18, 2009) (discussing risk management tools employed by Canada).

²⁶ See SHAWN MURPHY, KEEPING THE BORDER OPEN AND SECURE – CANADA BORDER SERVICES AGENCY OF THE OCTOBER 2007 REPORT OF THE AUDITOR GENERAL OF CANADA 13 (2007).

²⁷ See SPP Fact Sheet, <http://www.spp.gov/factsheet.asp> (last visited Oct. 6, 2009).

“perimeter.”²⁸ It looks at what companies can do, away from the border, to make the cross-border transaction more efficient; for example the size of a can of soup, or the pesticide tolerance levels in a food product.²⁹ What we were trying to do with the SPP is harmonize the regulatory environment for United States, Canadian, and Mexican companies, and, of course, the whole security chapter.³⁰

To my government colleagues here, the SPP, for the private sector, is not dead. We would like to return to the table on it, but it was also the first effort, which we started publicly discussing, the North American economic space.³¹ Well, the North American economic space with a \$141 dollar barrel of oil made the logistic change on the delivery chain that much more expensive.³² So we still have inspection fees, as we have not harmonized “the can of soup”, and now company’s storage and transportation costs are higher than the manufacturing of a product.

To use Ambassador Wilson’s term, the border got “thicker.”³³ We have non-traditional border agencies like the United States Department of Agriculture, the Food & Drug Administration, and Consumer Product Safety Commissions from Congress, issuing rules on import safety and product safety.³⁴ The Lacey Act,³⁵ for example, is all about illegal logging in Indonesia.³⁶ It has nothing to do with lumber in British Columbia, but the Lacey Act still imposes a global requirement for more data, such as where did the log come from, who cut it down, was it illegally logged, and does it meet international logging statutes?³⁷ There are twelve data elements for the Lacey Act, alone,

²⁸ See *id.* (explaining the objectives of the SPP).

²⁹ See Security and Prosperity Partnership of North America: Prosperity Agenda, http://migration.ucdavis.edu/rs/more.php?id=171_0_2_0 (last visited Oct. 6, 2009).

³⁰ *Id.*

³¹ See HAMILTON CHAMBER OF COMMERCE, ADVANCING THE SECURITY AND PROSPERITY PARTNERSHIP OF NORTH AMERICA (2006) (describing the importance of protecting the North American economic space).

³² See David Leonhardt, *Dispelling the Myths of Summer*, N.Y. TIMES, July 2, 2008, at C1 (describing the costs of oil).

³³ See Standing Committee on International Trade, <http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=3788342&Language=E&Mode=1&Parl=40&Ses=2> (last visited Oct. 6, 2009) (describing the border as “thicker”).

³⁴ See INTERAGENCY WORKING GROUP ON IMP. SAFETY, PROTECTING AMERICAN CONSUMERS EVERY STEP OF THE WAY: A STRATEGIC FRAMEWORK FOR CONTINUAL IMPROVEMENT IN IMPORT SAFETY 6-10 (2007) (outlining the current roles of different United States agencies in protecting the borders).

³⁵ See 16 U.S.C. §§ 3371-3378 (2009).

³⁶ See Embassy of the Republic of Indonesia, Indonesian Timber Product Trade Legitimation to United States, <http://www.embassyofindonesia.org/news/2008/12/news054.htm> (last visited Oct. 6, 2009) (outlining the potential impact of the Lacey Act on Indonesian logging).

³⁷ See 16 U.S.C. § 3372 (2009).

for any product that contains anything close to lumber,³⁸ which, for Canada, means a lot of products.³⁹

One data requirement is that a broker on the northern border charges one dollar.⁴⁰ That is twelve dollars per shipment of a furniture shipment.⁴¹ A paper company in Canada, one of our largest, ships twenty thousand shipments of paper into the United States.⁴² Twenty thousand times twelve dollars is a lot of money and that is the bottom line.

I only have five minutes left, and I really want to take a look forward. "Buy America" is now our single biggest issue. I think, and certainly members in the manufacturing agree, that the Recovery Act⁴³ dramatically expanded on the 1930 statute "Buy America."⁴⁴ Not only in the product coverage but also projects that are now covered by "Buy America." North of the border, Canadians see it popping up with its ugly realism for our provincial governments and our municipal governments.

So, not only in our view has Canada and United States seemed to have taken a one-hundred eighty degree turn from the North America economic space, we seem to be moving further and further to a transactional approach to border management.⁴⁵ It is not that my shipment is low-risk, because I ship gadgets from Canada with high safety, regulatory, and security regimes; instead it is because I have spent millions of dollars applying for Partners in Protection, Free and Secure Trade (FAST), and Customs Trade Partners Against Terrorism (C-TPAT) to secure my cargo supply chain. Those are important initiatives. Most of my members are approved for FAST and C-TPAT, however we long for the days when the Canadian, United States, and

³⁸ *Id.*

³⁹ See Foreign Affairs and International Trade Canada, Softwood Lumber, http://www.international.gc.ca/controls-controles/softwood-bois_oeuvre/index.aspx?lang=eng (last visited Oct. 6, 2009).

⁴⁰ See United States Department of Homeland Security, New Data Elements Required for Importation of Softwood Lumber Effective August 18, http://www.cbp.gov/xp/cgov/trade/trade_programs/entry_summary/laws/food_energy/softwood/alert_softwood_lumber.xml (last visited Oct. 8, 2009) (explaining costs that are associated with the required data elements of the Lacey Act).

⁴¹ See generally UGO FINZI ET AL., THE FURNITURE INDUSTRY IN THE UNITED STATES AND CANADA (2008).

⁴² See generally *id.*

⁴³ See Recovery.gov Track the Money, <http://www.recovery.gov/Pages/home.aspx?q=content/act> (last visited Oct. 6, 2009) (demonstrating where funds have been distributed as well as requirements for the government funds).

⁴⁴ See U.S. Dep't of Justice, Additional Requirements for OVW Recovery Act Programs, <http://www.ovw.usdoj.gov/recovery-solicitationrequirements.htm> (last visited Oct. 6, 2009) (describing the "Buy American" provision of the Recovery Act).

⁴⁵ See CANADIAN CHAMBER OF COMMERCE, A HISTORY OF CONVERGENCE, COMPETITION AND COOPERATION, available at <http://www.chamber.ca/images/uploads/Reports/a-canada-u.s.border-vision.pdf> (discussing how inspection fees are levied on a transactional basis).

Mexican governments automatically identified each other as a low-risk trading partner in the North American economic space.⁴⁶

I am going to end with this one quote from Secretary Napolitano's presentation at Brookings and Washington last week,⁴⁷ and I invite all of you to read it if you did not read it in the paper. She said, "that is what we have to continue doing, moving forward. We have to make our decisions not based on assumptions, presumptions, stereotypes, or any of the like. We have to make our decisions based on actual data, data points that allow us to proceed and really conceive now of this border. And let's not ignore that we can just wave a magic wand and we have a shared border management structure. It is not an easy thing to accomplish."⁴⁸ I would have been happy if she had said, "But we can embark on shared border management planning."⁴⁹ However, those are not the words that she said, and thus it was a little bit chilling for the private sector to hear her words. We look forward to the next couple of years, but the time now is to reengage with the administration and with Ottawa because things are looking bleak for the private sector. On that cheery note, I pass it back to the panel. Thank you.

MR. KOLUNDZIC: Thank you, Birgit. Next we have Paul Storer, Professor of Economics at Western Washington University.⁵⁰

⁴⁶ See, e.g., Drew Fagan, Address for the Government of Canada Plenary Lunch at the ACSUS Conference, Nov. 15, 2007, available at [http://www.acsus.org/public/pdfs/Drew%20Fagan%20ACSUS%20Speech%20\(Final\).wpd](http://www.acsus.org/public/pdfs/Drew%20Fagan%20ACSUS%20Speech%20(Final).wpd) (explaining the need to shift attention from low-risk trade and travelers to higher-risk individuals).

⁴⁷ Janet Napolitano, United States Secretary for Homeland Security, Address at the Brookings Institution: Toward a Better Border: The United States and Canada, Mar. 25, 2009, available at http://www.brookings.edu/~media/Files/events/2009/0325_us_canada/20090325_canada_transcript.pdf.

⁴⁸ *Id.*

⁴⁹ See Press Release, Senator Charles E. Schumer, Shared Border Plan Will Save Hundreds of Homes, Make Buffalo a Draw for Commerce and Tourism (Dec. 21, 2004), available at http://schumer.senate.gov/new_website/record.cfm?id=264622.

⁵⁰ See Western Washington University, Paul Storer, [http://www.cbe.wvu.edu/CIB-NEW/Paul Storer.aspx](http://www.cbe.wvu.edu/CIB-NEW/Paul%20Storer.aspx) (last visited Oct. 6, 2009).

UNITED STATES SPEAKER

*Paul Storer**

MR. STORER: So on Birgit's cheery note, you get to hear someone from the dismal science, so the pattern is not good. Actually, I think this particular quote from Secretary Napolitano is a nice beginning to my talk. I was also at the Brookings conference where Secretary Napolitano gave her speech on the Canada-United States border.⁵¹ My initial reaction to the speech was not as negative as some peoples'. When I heard Secretary Napolitano talking about basing decisions on data, I was not so much thinking about data that exporters would be forced to provide to government, I was thinking about data that describe key facts about the border.⁵² In fact, I even thought perhaps she had been reading that excellent Canadian International Council (CIC) report that Birgit and Michael Kergin wrote.⁵³ One of the things that the Kergin or Matthiesen report says is the importance of determining "metrics," measures of how the border is doing, to figure out what is working and what is not working.⁵⁴ The report also talks about developing security credentials, and I thought maybe that is what the Secretary meant.⁵⁵ Maybe it was wishful thinking, but I thought maybe she had read Birgit's report and converted.

I am not quite sure if Secretary Napolitano really was being as negative as we may think. Time will tell, but hopefully someone will ask her to clarify her intentions because I thought it was a bit of an ambiguous speech. Anyways, personally I prefer using data. I think the reason we are now looking

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⁵¹ See Napolitano, *supra* note 47.

⁵² See generally Bureau of Transportation Statistics, Border Crossing Data, http://www.bts.gov/programs/international/border_crossing_entry_data/us_canada/index.html (last visited Oct. 9, 2009).

⁵³ MICHAEL KERGIN & BIRGIT MATTHIESEN, A NEW BRIDGE FOR OLD ALLIES (2009).

⁵⁴ *Id.*

⁵⁵ *Id.*

backwards at recent economic data is to let that data guide us as we think about how we should go forward.

My talk is going to be about the economic realities part of the North American economic relationship, taking, perhaps, more of a big picture view of these realities. And the punch line from this talk is going to be that initial trade liberalization, from the Auto Pact⁵⁶ through the Free Trade Agreement,⁵⁷ produced definite evidence of increased integration in North America.⁵⁸ We will see that integration showing up in the data that I am going to look at just to summarize trends. Unfortunately, the second half of the story is that this mutually beneficial integration of the late twentieth century, eroded in the twenty-first century.⁵⁹

An image that encapsulates these trends in the data is illustrated by a phrase that you hear everywhere now: the idea that we cooperate to make things together in North America.⁶⁰ I am actually starting to see some erosion of that cooperative mindset both in the data and also in people's thinking and words. There seems to be a growing trend to think in terms of "us versus them" as opposed to the "we" doing things together, and that does worry me, and so again I am led toward the economist's tendency to be dismal.

Let me show you some data, and then I am going to follow what I think Secretary Napolitano was suggesting, which is trying to envision the border of the future based on data that describes the past and present.⁶¹ However, first, just because I will probably run out of time, let me give you the policy recommendations. Hugh Segal posed the following question to the people who were on a panel at Brookings. "If we had one wish for the future of the border, what would it be?"⁶² My choice was take activities related to the monitoring and supervision of economic transactions, such as ensuring compliance with regulations or rules of origin, and remove these activities from the physical border. We would still allow the border stay for security reasons because realistically, the border is not going to go away, but we can make crossing the physical border as transparent as possible for economic activities

⁵⁶ See Canada-United States Auto Pact (1965), *supra* note 3 (discussing the history of the Auto Pact).

⁵⁷ See Haggart, *supra* note 14 (discussing the Free Trade Agreement and its impact on trade and productivity).

⁵⁸ *Id.*

⁵⁹ See VICTOR KONRAD & HEATHER NICOL, *BOUNDARIES AND CORRIDORS: RETHINKING THE CANADA-UNITED STATES BORDER-LANDS IN THE POSE-9/11* (2004).

⁶⁰ See Canadian American Business Council, CABCC in print, <http://www.canabusco.org/inthenews.html> (last visited Oct. 6, 2009).

⁶¹ See Napolitano, *supra* note 47.

⁶² See Hugh Segal, Address at the Brookings Institution: Toward a Better Border: The United States and Canada, Mar. 25, 2009, *available at* http://www.brookings.edu/~media/Files/events/2009/0325_us_canada/20090325_canada_transcript.pdf.

related to trade, investment, and mobility of labor. An example of this need for transparency relates to regulation for food and drug standards. We have almost the same food standards and there might not be any good reason why Canada Border Services Agency⁶³ people should have to be confiscating bottles of Aleve as they come into Canada.⁶⁴

We have made progress in this type of harmonization in the past: I remember growing up as a kid back when pop cans were ten ounces in Canada while they were twelve ounces in the United States.⁶⁵ I do not know why they were different. They are the same size now, and nobody's lost Canadian culture or identity because of the change in can volume. Realistically, from a political viewpoint it might help to advance this agenda if the United States made some goodwill efforts by doing some harmonization of its own. One example I think of is policy on Cuba. I think the United States policy on Cuba could become a lot more effective if it moved toward engagement, a direction more similar to Canada's policy approach on Cuba.⁶⁶ Such give-and-take on harmonization would prove that the policy is not just a one-way street with Canada moving in the direction chosen by the United States.

Okay, let us now look at the data, and you will see why I suggest that we need to move forward. I do not need to repeat the timeline for events like the Auto Pact⁶⁷ and the Security and Prosperity Partnership of North America (SPP)⁶⁸ because I think Birgit did a very good job of giving you the timeline. But keep the key dates from Birgit's presentation in mind as we look at the data I am going the share with you. The first patterns I looked at were for Canadian exports to the United States and Canadian imports from the United States. I was particularly interested in the share of Canadian exports and imports accounted for by the United States. So, I looked at the data starting in 1939, and then I put in a trend line. I did not rely on my eyeball because I am not good at art; instead I used a statistical technique to add a trend line. The trend line is based on what happened from the post-World War II period to just before the Canada-United States Free Trade Agreement (FTA), it is a

⁶³ See generally Canada Border Services Agency, About the CBSA, <http://www.cbsa-asfc.gc.ca/agency-agence/what-quoi-eng.html> (last visited Oct. 6, 2009).

⁶⁴ See Canada Border Services Agency, Information for Visitors to Canada and Seasonal Residents, <http://www.cbsa-asfc.gc.ca/publications/pub/bsf5082-eng.html#s2x16> (last visited Oct. 6, 2009) (describing how drugs that do not require a prescription in one country may not be allowed into Canada without a prescription).

⁶⁵ See generally Marina Strauss, *Canadian Pop Units Lag Parents' Efforts*, GLOBE AND MAIL, Nov. 16, 1989.

⁶⁶ See CRISTINA WARREN, CANADA'S POLICY OF CONSTRUCTIVE ENGAGEMENT WITH CUBA: PAST, PRESENT AND FUTURE (2003), http://www.cubasource.org/pdf/cuba_canada.pdf (discussing the history of Canadian engagement with Cuba).

⁶⁷ Canada-United States Auto Pact (1965), *supra* note 3.

⁶⁸ See SPP Fact Sheet, *supra* note 27.

post-war/pre-FTA trend. I extended this trend line after 1989 so I could compare what happened after the Free Trade Agreement came into effect in 1989 with what would have happened if Canada-United States trade had followed the pre-FTA trend. I am particularly interested in seeing how trade deviated from the pre-FTA trend.

Looking first at Canadian exports, there is a clear increasing trend in the share going to the United States, which means increasing integration.⁶⁹ At the time of the Auto Pact⁷⁰ there is a particularly notable spike in the fraction of Canadian exports going to the United States.⁷¹ It is not quite so clear what happened after the FTA,⁷² and that is apparently because there was in the mid 1980's a significant appreciation of the United States dollar which actually opened up Canadian exports to the United States market.⁷³ Between the mid 1980s and the early 1990s the Canadian dollar appreciated notably and that appreciation tended to delay the impact of the Canada-United States FTA for Canadian exports.⁷⁴ We do see the effect on Canadian exports a few years later.⁷⁵

To summarize these results, the Canada-United States trade liberalizations of the 1980s and the 1960s, the FTA and the Auto Pact, eventually produced big increases in the fraction of Canadian exports going into the United States.⁷⁶ What is happening recently is quite different though. This graph for the United States share of Canadian exports falls away from the trend dramatically in the recent period and the SPP certainly has not forestalled or mitigated that decline.⁷⁷

Now, let us look at imports. I know to some extent the current economic crisis is pushing some people to get a little bit more mercantilist in their viewpoint and we increasingly hear exports portrayed as good and imports as not so good.⁷⁸ As a warning against this view, I always remind my students

⁶⁹ See Office of the United States Trade Representative, <http://www.ustr.gov/countries-regions/americas/canada> (last visited Oct. 6, 2009).

⁷⁰ Canada-United States Auto Pact (1965), *supra* note 3.

⁷¹ See *id.* (discussing the spike in Canadian vehicles exported to the United States).

⁷² See Haggart, *supra* note 14 (discussing the Free Trade Agreement and its impact on trade and productivity).

⁷³ See JULES DUFORT, IMPACT OF THE EXCHANGE RATE APPRECIATION ON QUEBEC EXPORT AND GDP GROWTH 13 (2004).

⁷⁴ See COMM'N OF THE EUROPEAN COMMUNITIES, INFORMATION NOTE 11 (1993), http://aei.pitt.edu/4126/01/000909_1.pdf (describing the economic situation when the FTA came into effect).

⁷⁵ *Id.*

⁷⁶ See Office of the United States Trade Representative, *supra* note 70 (describing the increase in Canadian exports to the United States over the past fourteen years).

⁷⁷ See Statistics Canada, Canadian International Merchandise Trade, <http://www.statcan.gc.ca/daily-quotidien/090211/dq090211a-eng.htm> (last visited Oct. 7, 2009).

⁷⁸ *Id.*

that the voyages of discovery in the 1500s or 1400s were undertaken to find trade routes that would allow Europeans to import spices.⁷⁹ The point is that imports are just as important as exports. Imported raw materials and intermediate goods are often needed to make our exports competitive, and we have to remind people of that fact all the time.⁸⁰

The data for imports show some interesting differences relative to those for exports. There is a downward trend for the post-war/pre-FTA fraction of Canadian imports coming from the United States.⁸¹ The impact of the Auto Pact is not quite so clear because we see some movements both up and down. I think this ambiguity had to do with the difference in the way the auto industries were structured in Canada and the United States before the Auto Pact came into effect.⁸² There is a big initial post-1989 effect, though, of the Free Trade Agreement on the fraction of Canadian imports coming from the United States.⁸³ Like we saw for exports, though, there is a big drop-off since the peak. Based on these charts, something seems happened around 1999 or 2000 that partially reversed, or in some cases almost totally reversed, the impact of Auto Pact and FTA⁸⁴ integration that we see in the data.⁸⁵ This reversal is worrying because it seems to go hand-in-hand with this emerging mentality of moving away from cooperating by building things together to competing by implementing barriers such as “Buy America” programs.⁸⁶

A natural question to ask at this point is whether the declining United States shares of Canadian trade simply reflect the slowdown of the economy in the United States after 1999 and 2000? The answer to this question seems to be no. Researchers like Daniel Goldfarb and Glenn Hodgson of the Conference Board of Canada have been doing adjustments for the effects of economic cycles and they are starting to talk about Canadian-United States trade

⁷⁹ See generally JOHN KEAY, *THE SPICE ROUTE: A HISTORY* (2006) (describing the history of the spice trade routes).

⁸⁰ See NIGEL GRIMWADE, *INTERNATIONAL TRADE POLICY: A CONTEMPORARY ANALYSIS* 153 (1996) (explaining the importance of raw materials and intermediate goods for industrial expansion of nations).

⁸¹ See Not Just the FTA: Factors Affecting Growth in Canada-United States Trade Since 1988, <http://dsp-psd.pwgsc.gc.ca/Collection-R/LoPBdP/BP/prb0251-e.htm> (last visited Oct. 7, 2009) (stating that prior to the FTA, real merchandise imports from the United States grew at an average rate of only 0.6%).

⁸² Canada-United States Auto Pact, *supra* note 3.

⁸³ See Haggart, *supra* note 14 (stating that after 1989, service imports from the United States doubled).

⁸⁴ See *id.*

⁸⁵ See Glen Hodgson & Danielle Goldfarb, Fix NAFTA: Trade With the U.S. Hasn't Improved in Years, <http://network.nationalpost.com/np/blogs/fpcomment/archive/2008/05/05/fix-nafta-trade-with-the-u-s-hasn-t-improved-in-years.aspx> (last visited Oct. 7, 2009).

⁸⁶ See U.S. Dep't of Justice, *supra* note 44.

being “stuck in neutral” due to a lack of forward progress.⁸⁷ I have done some quick calculations myself of this effect and I will share them with you on the screen.

The first slide shown here takes Canadian imports from the United States and divides them by Canadian gross domestic product. That corrects any changes in Canadian Gross Domestic Product (GDP). Starting just after 1990, there is a big increase in Canadian imports from the United States as a fraction of GDP.⁸⁸ And then around 1999 or 2000, this share starts to decline.⁸⁹ The black vertical line in the graph is to identify 9/11 in the third quarter of 2001. The graph shows that the declining importance of United States imports relative to Canadian GDP is a process continuing since 9/11 but started even a little bit before.⁹⁰

Something similar is found for Canadian exports, based on work I have done with my colleague, Steve Globerman. Steve and I used statistical methods to basically strip out the effect of changes in exchange rates and changes in GDP, and treat what is left over as being possible evidence of security effects. What we did is we compared the actual export data with what our statistical analysis predicts assuming that only GDP and the exchange rate are changing but the security regime is unchanged after 9/11. These two series are shown as the bottom and top lines on the screen and the growing gap between the two lines point to a big export shortfall that is due to neither change in GDP nor to changes in exchange rates.

What is this shortfall due to? Well, there are quite a few potential villains here, and I will speak about a couple of them. One of them is I think the possibility that there is structural change going on in the economies that could be playing into these trends.⁹¹ There is also evidence on changing costs of doing business at the border, or to regulation issues and the associated small costs that can add up such as the cost of preparing all the data transmitted by exporters.⁹² To be more certain about cause and effect, we need data on when and by how much these regulatory costs have changed so that we can correlate regulatory changes with the changes that we are seeing

⁸⁷ See Hodgson, *supra* note 85.

⁸⁸ See STEVEN GLOBERMAN & PAUL STORER, THE EFFECTS OF 9/11 ON CANADIAN-U.S. TRADE: AN UPDATE THROUGH 2008 2 (2009).

⁸⁹ See *id.*

⁹⁰ See *id.*

⁹¹ See Diane C. Swonk, *A Glimpse at the Post-Recession Economy: A Structural Change Watch List*, THEMES ON THE ECON., May 8, 2009, at 1 (noting that regulation impacting the United States border may increase, creating a structural change in the economy).

⁹² See ALAN MACPHERSON, THE IMPACT OF THE U.S. BIO-TERRORISM ACT UPON CANADIAN EXPORTERS OF FOOD PRODUCTS TO THE UNITED STATES: A FIRM-LEVEL ANALYSIS 2 (2008) (describing how a particular set of regulatory features has imposed extra shipment and distribution costs upon Canadian exporters).

in trade behavior. I would like to note in passing, that our understanding of what is happening with Canada-United States trade would probably improve a great deal if the United States Department of Homeland Security offered to host conferences similar to this one where invited researchers and practitioners would get together to provide and discuss data and other evidence on the state of the border.

One way of looking at the impact of changing industrial composition on trade is to look at a measure of dispersion and export growth like the one shown here on the screen. This series looks at how much variation there is between categories of imports and, without getting into technical details, the idea here is that you have periods where there are heightened disparities in growth rates due to shifts of production and consumption patterns between sectors. Sometimes everything in the economy is growing at the same rate but at other times some trade categories are growing faster and some are slower. The level of the green line in this graph measures the degree of dispersion of growth rates by using a visual tool originally developed by an economist, David Lilien, to look at employment growth.⁹³

The concern raised by periods of heightened dispersion is that while there may be “sunrise” industries, such as green technology, that are growing more quickly than “sunset” industry, it takes time to grow into a new market whereas in the areas that are declining the drop happens fairly quickly.⁹⁴ Consequently, we can have periods of depressed economic condition until the growing industries have become established, particularly if there are impediments for newer firms to get into cross-border trade.⁹⁵

Next, I would like to share some information that surprised me. I took this chart out of the latest edition of Canada’s State of Trade published by the Department of Foreign Affairs and International Trade, and what the chart show is a declining share of intra-firm trade as a fraction of total Canada-United States trade.⁹⁶ We traditionally talk about the high level of intra-firm trade in Canada-United States trade, but this share actually fell from about forty-five percent in the mid 1980s to just about thirty percent recently.⁹⁷ I do not know if this is part of meaningful structural change or if it is just a relabeling issue. Is it simply that some of the companies have spun off their

⁹³ See JEFFREY PARKER, ECONOMICS 314 COURSEBOOK 14-21 (2009), available at http://academic.reed.edu/economics/course_pages/314_s09/Coursebook/Ch14.pdf.

⁹⁴ See generally SUSAN GRANT & CHRIS VIDLER, ECONOMICS IN CONTEXT 278 (2000) (explaining “sunrise” and “sunset” industries and the problems with the rates at which they develop).

⁹⁵ See *id.* (discussing the high unemployment problems with the quick decline of “sunset” industries).

⁹⁶ See FOREIGN AFFAIRS AND INT’L TRADE CAN., CANADA’S STATE OF TRADE: TRADE AND INVESTMENT UPDATE 2009 49 (2009).

⁹⁷ See *id.*

subsidiaries and trade that was once within-firm no longer counts as intra-firm trade.⁹⁸ Whatever the explanation, we need to find out what is going on.

One factor that could be causing reduced integration is evidence of increased cost at the Canada-United States border. This graph shows a measure of transportation costs obtained from the United States International Trade Commission's database. This graph for the Seattle's customs district shows costs for goods coming from Canada to the United States. We see some increase in costs related to freight and shipping after 2001. And one thing that's worth mentioning is that, as Birgit said, most of her members are in FAST and C-TPAT.⁹⁹ On the other hand, at the Blaine Crossing near where I live, only five percent of the crossings use FAST.¹⁰⁰ So there is some differentiation there. The figure is twenty-three percent in Buffalo and forty-four percent at Detroit.¹⁰¹ At Detroit, we do not see anywhere like the same time-pattern of transportation costs,¹⁰² and the different trends for Seattle and Detroit could be because of differential FAST utilization rates or other factors.¹⁰³

The last thing I want to mention is related to the SPP.¹⁰⁴ There are parts of the country where NAFTA is not being utilized. The rate of utilization of the NAFTA tariff preferences, the zero percent tariff, varies from seventy-two percent in the Detroit customs district to only twenty-three percent at St. Albans, Vermont.¹⁰⁵ Why is variation happening? Well, it could be that there is no big benefit to NAFTA or it could also be that there is a high cost of complying with NAFTA rules of origin.¹⁰⁶ High compliance costs for NAFTA rules of origin could be a particular issue for smaller firms. I should also mention that while the average pre-NAFTA Canada-United States tariff mentioned by Birgit was just three percent, the tariff varied quite a bit from

⁹⁸ See ANDREW B. BERNARD ET AL., INTRA-FIRM TRADE AND PRODUCT CONTRACTIBILITY 7 (2008) (defining "intra-firm trade" for the purposes of the study).

⁹⁹ See generally Canadian Manufacturers & Exporters, *supra* note 1.

¹⁰⁰ See BORDER POLICY RESEARCH INST. & REG'L INST., BORDER BRIEF 3 (2008), available at http://www.regional-institute.buffalo.edu/Includes/UserDownloads/PolicyBrief_BorderBrief_Sept08.pdf.

¹⁰¹ See *id.* at 3-4.

¹⁰² See Thomas Klier & William Testa, *The Great Lakes Border and Economy*, CHI. FED. LETTER, July 2002, at 3 (explaining how projects such as FAST could reduce transportation costs).

¹⁰³ See THE BROOKINGS INST., TOWARD A NEW FRONTIER: IMPROVING THE U.S. – CANADIAN BORDER 16 (2009) (explaining how trade differences could be partly the result of difference in utilization of FAST).

¹⁰⁴ See SPP Fact Sheet, *supra* note 27.

¹⁰⁵ See generally United States International Trade Commission, <http://www.usitc.gov> (last visited Oct. 9, 2009) (containing extensive data on NAFTA and United States trade).

¹⁰⁶ See OLIVIER CADOT ET AL., ASSESSING THE EFFECT OF NAFTA'S RULES OF ORIGIN (2002).

different products, so the benefit of NAFTA could vary by region based on the composition of regional trade by commodity.¹⁰⁷

I think my time is up, and I will wrap up by repeating my punch line: the growing Canada-United States integration of the 1960s and 1980s has been replaced by stagnation and we need to get economic integration moving forward again to benefit both countries. To this end, we should make definite efforts to eliminate or at least relocate the activities that should not be taking place at the physical border. Thank you.

MR. KOLUNDZIC: Thank you very much, Paul. Our next speaker is Nik Nanos, President of Nanos Research.¹⁰⁸

CANADIAN SPEAKER

*Nikita Nanos**

MR. NANOS: This is going to be a bit like Monty Python's sketch, "And now for something completely different"¹⁰⁹ because what you have heard before me focused on the details. What I want to do is to shift from the details to the big picture in examining what is on the minds of Americans and Canadians in regards to the border. But before I do that, first of all, I would like to thank the organizers for inviting me here today to share some data and views on the United States-Canada relationship. You should consider this a

¹⁰⁷ See Proceedings of the Standing Senate Committee on Foreign Affairs, http://www.parl.gc.ca/37/3/parlbus/commbus/senate/Com-e/fore-e/01evd-e.htm?Language=E&Parl=37&Ses=3&comm_id=8 (last visited Oct. 8, 2009) (stating that there are differences in the impact of NAFTA on different products).

¹⁰⁸ See Univ. at Buffalo, Faculty, <http://www.canadianstudies.buffalo.edu/faculty> (last visited Oct. 8, 2009).

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¹⁰⁹ See And Now for Something Completely Different, Internet Movie Database, <http://www.imdb.com/title/tt0066765/> (last visited Oct. 8, 2009) (providing information about the Monty Python anthology with this name).

discussion rather than a formal presentation because my goal is to challenge you by putting controversial ideas on the table.

Fortunately, as a researcher, I am comfortable with being challenged. Actually, I would be very worried if everyone agreed with what I said. But today I want to talk about the triangulation of public policy, public opinion, and the negative impact on what I will call the theater of the security threat and its damaging impact, not on the public but on legislators and our political leadership in Canada and the United States.

Today my assertion is that if our political leaders understood and listened to Canadians and Americans as opposed to reacting to the theater in the media, public policy related to the Canada-United States border would be positively transformed. In my experience in many cases, the great mass of public opinion is better at cutting to the core of a public policy issue. In this particular case, the mass of public opinion is more reasoned, more rational, and more realistic than many of our political leaders. Average Americans and Canadians, if there is such a thing, get it. And they are ahead of our leaders in how the Canada-United States relationship should be governed, what our borders should be, not an obstacle or a wall, but a facilitation point to elevate trade, prosperity, and the furthering of a common sense of purpose and human experiences.

Today I am going to comment on the role of the media in creating this false theater of fear, the forces that are at play, and how average Americans and Canadians have been able to parse the fear and the theater and recognize the importance of an effective Canada-United States border. This is quite significant because public opinion research generally portrays how people react to or reflect upon what they see in the media. In this case, it is a longitudinal study; and, from an academic perspective, it is repeatability that counts. This longitudinal study allows us to understand views of Americans and Canadians that do not necessarily reflect the views of the political leadership or the opinion portrayed by the media. There is something greater there.

In many ways, our current situation is similar to a family drama. There is the lore of past glory, the fears of life-threatening crisis, and the plain truth driven by geography and more than a century of goodwill. I am going to walk through some longitudinal trending on the views of Americans and Canadians and wrap up with some key observations for you to think about.

So where are we today? We are in a serious yet unintentional place fed by sensational headlines of an attention-seeking media followed by our elected officials. This environment is nurtured by fear and misperceptions. And the odd thing about this all is that it is not the public that is fearful or has misperceptions, it is our political leaders who are fed with and focused on the media. There is something called the illusory perception where false or misleading information changes someone's perception. The simplest and most

common example relates to crime. People watch the news, they hear about a crime incident, and, as a result, they live in fear in their neighborhoods. The reality actually may be that crime is down in their neighborhood but they focus on that one incident. It might not be reported, it might not happen in their neighborhood, their city, state or country, but they hear about a sensational incident somewhere else, and it influences their behavior and their views. These false perceptions also influence, as a result, public policymakers.

Let us apply the same perspective to the border. Fox News, for example, sensationalizes the border with Canada as an open door for terrorists.¹¹⁰ Post-9/11 government institutions attempt to feed this fear. Yesterday when I was in the airport in Chicago-O'Hare, an orange alert repeated throughout the whole day. I am not here to diminish the importance of that, but that is an institutional feeding of a particular attitude.

But when we look at the research, what is absolutely definitive is that as opposed to putting up barriers, Canadians and Americans want to see greater cooperation on border issues, and that their views have been largely uninfluenced by this environment.¹¹¹

In a way, it could be very well argued that the great mass of public opinion on Canada-United States relations is formed by a longer term view, and that it is our politicians who are narrow and short-sighted, reacting to media clippings of today as opposed to thinking about the future. Likewise, when we look at the data, it is very clear that Americans absolutely reject what I will call a cookie cutter policy applied to all neighbors, all allies, and all other countries.¹¹² Americans understand when you look at the data, that you need the right solution for the right situation. So let us look at some data.

Now, Nanos is very proud to have partnered University at Buffalo.¹¹³ I am a research associate professor there.¹¹⁴ We donate the core part of the research and we share it with academics to promote a dialogue on Canada-United States relations.¹¹⁵ And just so I can plug the program, the program always looks for financial support from government and para-public organi-

¹¹⁰ See Maria Chichowski, U.S. Tightens Security Along Canadian Border as Security Experts Decry 'Open Door' to the North, <http://www.foxnews.com/story/0,2933,376244,00.html> (last visited Oct. 8, 2009) (exhibiting a fear of terrorists crossing through the "open door" at the United States' northern border).

¹¹¹ See NANOS RESEARCH & UNIV. OF BUFFALO, AMERICANS KEEN ON SECURITY AND BORDER CO-OPERATION WITH CANADA 1 (2006), available at <http://www.sesresearch.com/library/polls/POLNAT-W07-T222.pdf>.

¹¹² See *id.*

¹¹³ *Id.*

¹¹⁴ See Univ. at Buffalo, *supra* note 108.

¹¹⁵ See generally *id.* (describing Mr. Nanos' relationship with the University at Buffalo and his firms partnership with the university).

zations who are interested in commissioning further dialog and getting more data on this issue.

Our focus for the initiative is to understand the priorities and practicalities of the Canada-United States relationship in terms of public policy, the border, and common economic priorities.¹¹⁶ We are in our fourth year of tracking, and we have run parallel samples in Canada and the United States of 1,000 individuals or thereabouts in both countries.¹¹⁷ So what are the key takeaways from the longitudinal research? First, among the striking findings of the research, and this cuts across a series of key indicators, is that the appetite for cooperation is strong in both countries, but even stronger in the United States than in Canada.¹¹⁸ Americans want to cooperate and to work together with Canadians on bi-national issues.¹¹⁹

Two, regional variations of opinion are wider in Canada than the United States. For example, if you live in the southern United States, your positive views of Canada are very similar to Americans that live in other parts of the United States even though you do not share a border with Canada.¹²⁰

Third, even with the media hype and what I will call the false theater, Canadians and Americans are generally on the same page on many of these common issues. So, let us look at the data. One of the questions that we ask in terms of border security, is should Canada and the United States be moving towards greater and closer cooperation, or should they be maintaining separate national security priorities? You can see there is a significant appetite for cooperation in both countries.¹²¹ The trend line is relatively stable with a bit of a decline in both countries.¹²² What you see when we look at the regional variation is an eight point variation in the United States, fourteen points in Canada, but the reality is there are majority opinions everywhere.¹²³ There is a high appetite for cooperation, and that appetite is much higher in the United States than in Canada, and every single region of the United States is more likely to be interested in cooperating than any region in Canada.¹²⁴

¹¹⁶ See NANOS RESEARCH & UNIV. OF BUFFALO, TRACKING THE PUBLIC DIMENSION OF CANADA-U.S. RELATIONS 3 (2009), available at http://cusli.org/conferences/annual/annual_2009/presentations/Nanos.pdf.

¹¹⁷ See NANOS RESEARCH & UNIV. OF BUFFALO, *supra* note 111, at 2.

¹¹⁸ *Id.* at 1.

¹¹⁹ *Id.*

¹²⁰ *Id.* at 7-10.

¹²¹ See generally *id.*

¹²² See MUNROE EAGLES & NIK NANOS, TRACKING THE PUBLIC DIMENSIONS OF CANADIAN-AMERICAN RELATIONS: LOOKING BACK OVER FOUR YEARS OF THE "NANOS-UB NORTH AMERICAN MONITOR" 7 (2009), available at <http://www.nanosresearch.com/library/polls/POLNAT-W09-T362.pdf>.

¹²³ See NANOS RESEARCH & UNIV. OF BUFFALO, *supra* note 111, at 3-10.

¹²⁴ *Id.*

So let us look at crossing the border. For this particular measure we asked about what people think in regards to goods crossing the border. The takeaway here is that basically only five percent or one out of every twenty Americans saw Canada as a target for border inspections, and that this trend line has been very stable.¹²⁵

You can see back in 2005 that Americans were more likely to cite goods coming from Mexico as a target.¹²⁶ You also see the spike in China as a target.¹²⁷ We choose the grid of countries based on major trading partners. Canada, the United States, Mexico, China, Japan, France, and Great Britain, and we test against all these different countries.

It is interesting when you look at the Canadian side where there has been a decline.¹²⁸ Canadians feel that there should be a greater inspection of American goods.¹²⁹ A lot of that, when you look at what is in the media, relates to tobacco and firearms, the perception or misperception that guns from the United States and large volumes of tobacco are illegally getting into the country, and that is what is reflected there.¹³⁰ In regards to questioning visitors at the border, the data here are relatively stable.¹³¹ You can see in the last wave of research only about four percent of Americans thought that Canadians should be a target for thorough questioning at the border.¹³² Americans were more likely to identify individuals from Mexico or China.¹³³ In regard to support for closer cooperation, we asked should Canada and the United States be moving towards greater and closer cooperation, or should they be maintaining separate national security policies? You can see that the appetite for closer cooperation on antiterrorism measures is strong in both countries.¹³⁴ Stronger in the United States than in Canada, but still very significant in regards to the direction that Canadians and Americans would like to see it.¹³⁵

We also looked at an integrated energy policy. And the reality is that it is a political slam dunk: between eight out of ten, and nine out of ten Canadians

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ See John Ivison, *Ottawa Needs U.S. Help to Fight Illegal Tobacco*, NAT'L POST, May 7, 2008, available at <http://www.nationalpost.com/related/topics/story.html?id=499131> (explaining Ottawa's problem combating illegal tobacco smuggled into the country from the United States).

¹³¹ See MUNROE EAGLES & NIK NANOS, *supra* note 122.

¹³² *See id.*

¹³³ *See id.*

¹³⁴ *See id.*

¹³⁵ *See id.*

and Americans would like to see greater importance being placed on an integrated energy policy.¹³⁶

Now, in the wake of President Obama's recent visit to Canada, we did a supplementary study in regards to what Canadians thought about the visit and messaging. When Barack Obama said the United States could not have a better friend or ally than Canada, you can see that that resonated very well with Canadians.¹³⁷ That being said, in these statement testings we did not include the name Barack Obama or Stephen Harper in order to get a clean read. But it is interesting when you look at the Prime Minister's comment in regards to "there is no such thing as a threat to the national security of the United States that does not represent a direct threat to Canada," majority opinion agreed, but not as strongly.¹³⁸ The key learning from this study is that, when it comes to domestic continental issues of the border, the environment, or energy, there is significant support for cooperation and working together on those issues.¹³⁹ Canadians, get a little more nervous when it comes to the same level of cooperation and alignment in terms of foreign policy or issues outside of the continent.¹⁴⁰

To wrap up, Canadians and Americans have a very practical view of our binational relationship on continental issues such as the border, the environment, and energy.¹⁴¹ They are ready for greater cooperation.¹⁴² Two, a look at the longitudinal tracking suggests that legislators today in the United States do not reflect the views of Americans on issues related to the relationship with Canada.¹⁴³ Three, the sensational theater of the security threat portrayed in the media has not influenced or turned opinion in the United States against Canada.¹⁴⁴ Four, the reciprocal views of Canadians and Americans are relatively stable, but that it is the American public who has an appetite for greater cooperation although the appetite is still very strong in both countries.¹⁴⁵

So there you have it. The people of Canada and the United States are well ahead of their politicians on a vision for the relationship and a path for the future. One last comment, as some of you know, I am in the business of doing research in the private sector and helping customers get what they

¹³⁶ *See id.*

¹³⁷ *See* Nik Nanos, *Canadians Agree, We're America's Best Friend; They're Less Sure a Threat to the U.S. Also threatens Canada*, POL'Y OPTIONS, Apr. 2009, at 56-59.

¹³⁸ *Id.*

¹³⁹ *See* MUNROE EAGLES & NIK NANOS, *supra* note 122.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

want. Think of this question: Why have advocates of a better border not been successful? In my opinion, it is because of the undertone that focuses, especially from Canadians, on fairness. They complain. It is not fair. It is not nice. The best way to move the dial, in my opinion, is to shift from fairness and to point blank say three things; one, give Americans and Canadians what they want, a Canada-United States border that facilitates the human and business experiences that bind our two countries; two, cookie cutter solutions do not work; and three, get to work to make it happen.

If any public policymaker or legislator was looking at this data, the message they would take home is “I need to get to the table. How can I catch up with the no-brainer that Americans and Canadians have in regards to the future of the border?” It does not mean an open border, but it just means come to the table, find solutions, give Canadians and Americans what they want.

DISCUSSION FOLLOWING THE REMARKS OF BIRGIT MATTHIESEN, PAUL STORER, AND NIKITA NANOS

MR. KOLUNDZIC: Thank you very much, Nik. The prior agreement, we had left a little bit of time amongst the panelists to ask some questions amongst themselves, if they were so inclined. Are there any questions that you folks have, Birgit or Nik?

MS. MATTHIESEN: Can I just ask one question?

MR. KOLUNDZIC: Sure.

MS. MATTHIESEN: I had a question for Nik. The people surveyed in your study, how close to the border are they? Do these individuals live close to the border, or to put it another way, how far away from the Canada-United States border did you go to ask those questions?

MR. NANOS: Well, we did two geographic representative samples. The respondents in the southern United States were proportionate to how much they comprised in the population.¹⁴⁶ So these are two national samples geographically and demographically reflective of the population.

The thing that surprised me the first year was that I expected to see different views of Americans from different parts of the United States. I know in Canada it is a common occurrence, but I was expecting the same type of thing in the United States data. What surprised me were the commonalities of opinion in regards to perceptions of different trading partners across the United States, and that they were relatively similar and stable over time.

Now, if we had just done one study, I would have said, “Well, let us see. Is this just a one-off?” But now we are going into our fifth year of tracking and it is pretty clear that there is a relatively stable trend.¹⁴⁷ We are seeing

¹⁴⁶ See NANOS RESEARCH & UNIV. OF BUFFALO, *supra* note 111.

¹⁴⁷ See MUNROE EAGLES & NIK NANOS, *supra* note 122.

things that influence the day-to-day relationship, but on the core values they are fairly consistent.

MR. KOLUNDZIC: Paul?

MR. STORER: I had just a quick comment, which may help tie together what I spoke about with what Nik had to say. Again, when I heard Secretary Napolitano's speech, I thought when she was referring to anecdotes and just generalizations, maybe that is what she was talking about, the media sensationalizing or the Lou Dobbs approach or the stories about hijackers coming from Canada turn out to be false.¹⁴⁸ Again, replace those things that are suppositions with facts and data. If that is not what she meant, hopefully she will realize very quickly after hearing from people like Nik that that is what she meant.

MR. NANOS: But the problem is that in the current environment, can we get the attention of people? In an economic downturn, people are thinking about their jobs, about whether their kids can get jobs. I think that is the one vulnerability for this issue, to basically be put on the back burner as not being part of the solution because the administration in the United States and the government of Canada is basically fighting for economic survival and viability.¹⁴⁹ I think that is the challenge. It would be like the dialogue in Canada on health care. People just are not going to be as focused on health care when they are worried about whether they have their jobs. Strategically, that is the challenge right now. If you think it was tough before to get what you want on border issues, it is tougher now unless you can insert yourself as part of the narrative for the solution.

MR. KOLUNDZIC: Thank you. It is open to the floor for questions.

MR. TENNANT: Just on this point, Nik. Could you clarify whether this type of pattern in which what the public believes is different than what the media is influencing the politicians to believe tends to exist in other situations? Is this a pattern on public policy issues that exists? And then to the extent that this is a not uncommon pattern, are there examples that you would be aware of where people have been successful in getting the politicians to believe what the public believes?

MR. NANOS: Actually I think this is not part of a pattern. The usual pattern is for people to be wound up by what they see in the news. Crime is the best example, right? That is why I think if we do research in the future, I would like to dig a little deeper in regards to whether there is something a

¹⁴⁸ See Fox News, Napolitano Riles Canadians by Suggesting 9/11 Terrorists Crossed Their Border, <http://www.foxnews.com/politics/first100days/2009/04/22/napolitano-riles-canadians-suggesting-terrorists-crossed-border/> (last visited Oct. 22, 2009).

¹⁴⁹ See CBC News, Odd Indicators Hit Mainstream in Economic Recession, <http://www.cbc.ca/money/story/2009/05/27/f-odd-economic-indicators-canada.html> (last visited Oct. 22, 2009) (explaining the status of various economic indicators for both Canada and the United States).

little more basic that is driving these opinions. And we were talking before about the challenge that we are just part of the wallpaper, right? What did you say, Birgit? “We are just not into you” as some Americans would say. But the thing is, even though some Americans might not be similar to Canadians, there seems to be some kind of latent piece of common sense and understanding of the long-term relationship.

Now, how do you move the dial, to your second question? You move the dial by making yourself part of the solution. It is the standard strategy of a lobbyist, find out what your target is interested in and determine how you can be part of the solution. So, I think in that particular sense, what you want to do is to try to encourage a long-term view to talk about prosperity because what you do not want to do is to have a border which undermines prosperity in Canada or the United States. And to then move from that building to what people want. In a way, it is like the thing many business people say, “Do not get in our way of making money.” The border should not get in the way of Canadians and Americans making money. In a way, you have to speak the language of the current economic priorities and things that will capture the attention of legislators because if not, you forget, “Yeah, I know it is important, but I have other more important things to think about, and we will get back to you.”

MR. KOLUNDZIC: Thanks, Nik.

MR. HICKS: Dana Hicks, Perlitz Strategy Group and Honorary Canadian Consul, Charlotte, North Carolina.¹⁵⁰ Question for Birgit. You mentioned the harmonization of standards and approvals. In your view or in the panel’s view, where are the greatest challenges remaining, and what should be the highest priorities? And I would really appreciate it if you would talk specifically to Underwriters Laboratories and the Canadian Standards Association and whether those will ever reach a single harmonized standard.¹⁵¹

MS. MATTHIESEN: I have a copy of the Security and Prosperity Partnership of North America on my desk every day. And it is 2,930 gazillion pages, and there are twenty pages in that brick that I always refer to.

We have as dire as the environment is, and I am not going to paint a rosy picture for you, it is pretty bleak. As dire as it is, there are some tremendous opportunities moving forward. We cannot move forward on them until we get back to the unsexy, boring, but incredibly critical work of regulatory integration and harmonization.

¹⁵⁰ See Clemson University, Language and International Trade, <http://www.clemson.edu/lnit/hicks.html> (last visited Oct. 22, 2009).

¹⁵¹ See generally ASS’N OF STANDARDIZATION AND CERTIFICATION ET AL., PROCEDURES FOR HARMONIZING ANCE/CSA/UL STANDARDS (2008) (providing suggestions for harmonizing the varying standards).

Particularly in the energy technology field, there are \$787 billion of stimulus money in the United States.¹⁵² There is a gazillion dollars in Canada and everywhere else around the world. On stimulus spending and shovel-ready projects, the smart grid is very intriguing to us. We always talk about an integrated supply chain. We have an integrated smart grid between Canada and the United States.¹⁵³ We need to look at where we are going in the future to solve energy problems in the future, but also to create very good long-term high-paying jobs. In other industries such as Agri-Food, we need to agree on product safety and standards on health and, generally on product safety.

We are probably, Denise can answer the question better than I can, but in those sectors, we are probably at ninety percent with each other on the standards.¹⁵⁴ That ten percent can be a killer. But more importantly, let me just make a general statement in response to Nik's questions, when Americans and Canadians think about the border and inspections of goods and people, I think there are two elements to that. The other question I would have liked to ask is, on the question of the border, do you want goods and people to be inspected more from Canada, or the United States and everybody else? The Harvard School did a study sort of similar to Nik's on food safety bills in the United States.¹⁵⁵ There are three big ones up on the hill.

When they were asked, by paraphrase, do you trust the food product from imports? Everybody went, "Oh, no, no, no, the American food supply is much better, it is safer, we need to open up every box and open up every can and test everything from the world."¹⁵⁶

The second question was: Do you have confidence in a food product from China? Ninety-seven percent said no.¹⁵⁷ Canada and Mexico, a little lower.¹⁵⁸ Canada, they had great comfort level in a food product from Canada.¹⁵⁹ The problem without engaging the SPP is that Canada is sideswiped by con-

¹⁵² See generally The Act, http://www.recovery.gov/About/Pages/The_Act.aspx (last visited Oct. 22, 2009).

¹⁵³ See U.S. DEP'T OF ENERGY, WHAT THE SMART GRID MEANS TO AMERICA'S FUTURE 6 (2009) (discussing how the smart grid could prevent disasters such as the 2003 blackout that impacted both Canada and the United States).

¹⁵⁴ See Mark Mahabir, International Food Standards, <http://www2.parl.gc.ca/Content/LOP/ResearchPublications/prb0599-e.htm> (last visited Oct. 23, 2009) (describing steps taken to harmonize international Agri-Food standards).

¹⁵⁵ See generally ROBERT J. BLENDON ET AL., FOOD SAFETY SURVEY (2008), available at http://www.hsph.harvard.edu/news/press-releases/files/foodsafety_TOPLINE_release.doc (containing the results of a food safety survey conducted by the Harvard School of Public Health).

¹⁵⁶ *Id.* at 11-12.

¹⁵⁷ *Id.* at 12.

¹⁵⁸ *Id.* at 11-13.

¹⁵⁹ *Id.* at 13.

gressional initiatives on import safety, like the Lacey Act,¹⁶⁰ the Consumer Product and Food Import,¹⁶¹ et cetera, that is targeted to other trading partners.¹⁶² But we are sideswiped by a broad brush, and so we need to get back to a discussion of safety regimes and inspection regimes and trusting each other's regimes so that a transaction can be deemed low-risk because anxiety is at its all-time high in Canada and the United States, and we understand that. But when the anxiety level is at that high, is that high? People circle the wagons.

So it is probably incumbent upon us in Canada as we have said in the panel, we have got to make the case and be part of the solution, and maybe not whine so much. I do not know who said it, I think it was Nik. That was a very long answer, but I wanted to get your point.

MR. KOLUNDZIC: Thank you, Birgit. We've got a question over here.

MR. FELDMAN: I am Elliot Feldman. I have just a comment for Paul, and then I want to propose a paradox that comes out of remarks from Nik and Birgit.

Paul, this is a classic "be careful what you wish for." You advance the notion the United States ought to harmonize its policy toward Cuba with Canada's, and you may be aware that this week there are bills in Congress, and it looks very probable that we will open travel to Cuba.¹⁶³ I was asked by someone from The Associated Press who is posted in Cuba yesterday what I thought of this idea.

It has not occurred to him that it meant moving Fort Lauderdale during spring break. So those comfortable vacations Canadians have been having in the uncrowded beaches of Cuba have come to a swift conclusion. Be careful what you wish for. On the paradox, I hesitate to inject as in the first session of the meeting, the Softwood Lumber Agreement,¹⁶⁴ but I cannot resist because it is not an aberration, I think it is quite central to the conversation. And, Nik, you have a paradox that the publics regard each other well, but the leaders do not seem necessarily to do so or have mutual suspicions. I think the polling has shown for at least forty years that Americans regard Cana-

¹⁶⁰ 16 U.S.C. §§ 3371-3378 (2009).

¹⁶¹ See HKTDC, Business Alert, <http://www.hktdc.com/info/mi/a/baus/en/1X007CDN/1/Business-Alert-%E2%80%93-US/Congress-Weighs-Legislative-Options-to-Enhance-Food-and-Consumer-Product-Safety.htm> (last visited Oct. 23, 2009) (describing initiatives by Congress to increase consumer product safety).

¹⁶² See Furniture Today, Updated Lacey Act Becomes World's First Ban on Illegal Logging, http://www.furnituretoday.com/article/46783-Updated_Lacey_Act_becomes_world_s_first_ban_on_illegal_logging.php (last visited Oct. 23, 2009).

¹⁶³ See Arthur Brice, Bill to Allow Travel to Cuba Has a Better Shot, <http://www.cnn.com/2009/POLITICS/03/31/cuba.travel/index.html> (last visited Oct. 23, 2009).

¹⁶⁴ Softwood Lumber Agreement, U.S.-Can., May 29, 1996, 35 I.L.M. 1195.

dians as their best friends and Canadians regard Americans as their best friends and this has not really changed. And then we ask, “So what is the policy problem?” And here, I think the issue is the performance or lack of performance of Canadian leaders and the Canadian Embassy, which I want to prod Birgit a little bit about this. The United States runs a drum beat on trade issues that Canadians are cheaters. Olympia Snow, Senator from Maine, used that very language, and the kind of language that the United States uses on a daily basis toward China it uses toward Canada.¹⁶⁵ Among the leadership, that perception is then reinforced when Canada capitulates on trade issues and in effect says guilty as charged.

So instead of proving its case or entering the public arena or using any public relations capacity at all, Canada says, “Well, we do not necessarily agree, but we are going to give in completely to your position,” whereupon the pressure increases because Americans press their advantage, they do not retire from the fray.¹⁶⁶

So what we hear on softwood lumber is emblematic, it seems to me, of what we hear on lots of these subjects like the border.¹⁶⁷ And you can characterize it as mythology, but it is not necessarily a mythology in the American mind of leaders, so the border becomes a dangerous place. The food supply is unreliable, Canadians cheat on the Softwood Lumber Agreement, they subsidize their products.¹⁶⁸ We need to label all the food, we cannot have weanlings come in and call it Canadian because those Canadian weanlings will not be as reliable as our mad cows. So we have established from the American side among our leaders a perception of Canada that is not so reliable and Canadians do nothing about it. They capitulate, they agree. The government not only said, “We will give you forty-seven million dollars to resolve this arbitration on the Softwood Lumber Agreement,” but said publicly, “If it is not enough, we will give you more.”¹⁶⁹

Perhaps this addresses a little bit the paradox and goes to a profound failure of the Canadian government, Canadian leadership, Canadian Embassy

¹⁶⁵ See *China’s Industrial, Investment and Exchange Rate Policies: Impact on the United States Before the U.S.-China Econ. and Sec. Review Comm’n*, 108th Cong. 8 (2003) (accusing China of “cheating”).

¹⁶⁶ See Ministry of Forests and Range, Canada-U.S. Lumber Trade Disputes, <http://www.for.gov.bc.ca/HET/softwood/disputes.htm> (last visited Oct. 29, 2009) (describing the background of the softwood lumber disputes).

¹⁶⁷ See *id.*

¹⁶⁸ See generally Reuters, U.S. Claims Victory in Lumber Case Against Canada, <http://www.financialpost.com/news-sectors/trading-desk/story.html?id=1333264> (last visited Oct. 23, 2009) (claiming that Canada breached the previous agreement).

¹⁶⁹ See Andrew Duffy, U.S. Imposes Duties on Some Softwood-Lumber Exports, <http://www.nationalpost.com/m/story.html?id=1474789> (last visited Oct. 29, 2009) (discussing Canada’s settlement offer and subsequent request that the offer be examined to determine if it was adequate).

over a long period of time, but certainly over the last ten years, to make its own case in the United States so that it would be perceived, at least among American leaders, in a better light.

MR. KOLUNDZIC: That is a comment, and I suspect there is a question in there, somewhere.

MR. FELDMAN: It is meant to be a provocation.

MR. NANOS: Actually, one thing I would like to add to that is that I agree, or generally agree in regards to Canadian leaders. Let us face it, if Canada were a company and the United States was our biggest customer, we would spend a lot of time making sure that everything is working smoothly. We would assume that everything is going okay with our most important customer.

And you know what? I am going through the cobwebs of my memory from twelfth grade history, and I believe that Sir John A. MacDonald was the first Canadian Ambassador to the United States.¹⁷⁰ I believe he got it right, even though we were a part of the British Empire at the time, that the relationship between Canada and the United States is vitally important to Canada.¹⁷¹ It should be a top priority for Prime Ministers. And when that relationship has worked the best, it is not when we agreed on everything; it is when the Prime Minister has made it a priority because the Prime Minister understands that it is vitally important to Canada's interest for our biggest customer. For Prime Ministers that ignored that reality, the relationship suffered.

MR. STORER: A couple of quick things. I am aware that Canadians and other, non Americans may be less than enthusiastic about the prospect of losing Cuba as an American-free place to go on vacation.¹⁷² But other than that, on the issue of softwood lumber, I wonder how much of the problem of capitulation may be due to deficiencies in the dispute settlement mechanisms built into NAFTA.¹⁷³ It seems like a lot of the reason that Canadians may have given in, even after winning dispute settlement panels, is the fear that maybe they will lose the next one because there is no precedent set.¹⁷⁴

¹⁷⁰ Cf., JAMES T. ANGUS, A RESPECTABLE DITCH: A HISTORY OF THE TRENT SEVERN WATERWAY, 1833-1920 431 (McGill 1999) (listing Leighton McCarthy as the first Canadian Ambassador to the United States).

¹⁷¹ See The National Archives, The End of the British Empire in the Dominions, <http://www.nationalarchives.gov.uk/education/empire/g3/cs1/background.htm#bullet2> (last visited Oct. 26, 2009).

¹⁷² See Arthur Brice, *supra* note 163 (describing the potential removal of the United States' travel ban on Cuba).

¹⁷³ See generally DAVID A. GANTZ, THE UNITED STATES AND NAFTA DISPUTE SETTLEMENT: AMBIVALENCE, FRUSTRATION, AND OCCASIONAL DEFIANCE (2009) (describing major dispute settlement mechanisms in NAFTA, as well as the controversies they have generated).

¹⁷⁴ See generally *id.*

Changing the dispute settlement mechanisms might help enhance the Canadian position even if the present Prime Ministers cannot be relied upon to do a better job of marketing.

MR. KOLUNDZIC: Mr. Crane.

MR. CRANE: Thank you. I think most Canadian Prime Ministers have made the United States a priority. Where trouble arises quite often is when a Prime Minister is unwilling to do what the United States wants to tell them to do such as participating in the war in Iraq, which we felt was a bad move, or developing the International Criminal Court or Land Mines Treaty.¹⁷⁵ That is where you get into trouble. But Canada should not adopt a position of withdrawing from those policy positions because an existing administration gives them a high priority.

I was very struck going back to the first presentation, and this issue of American protectionism. And the United States Congress is instinctively protectionist; it has been for a good period of time.¹⁷⁶ I was struck by the fact that when the United States Congress withdrew from a NAFTA commitment to Mexico to allow the entry of United States trucks, that the Mexicans retaliated pretty quickly and imposed a penalty worth \$2.4 billion on United States imports.¹⁷⁷ And is that not the route to go? In other words, if we are going to get hammered by protectionist measures, why do we not respond in kind? Say, "Okay, we are going to do something just rather than just sitting back." I thought the Mexicans did exactly the right thing on that issue, they terribly embarrassed the administration. I mean, Obama is going down there next month and with this cloud hanging over his entire visit. And it seems to me that generally speaking, I do not just apply this to the Canada-United States relationship, but generally at a time when the world economy is in crisis and some countries take protectionist steps, we should use every legal means to punish those countries in terms of what they are doing. So that is my question I raise on a point.

I wondered on the harmonization issue of things, especially safety and food products and in pharmaceutical products, and because there are problems of all countries. I mean, we have read about China, but peanuts in the United States, a pretty serious issue. People died from lax regulatory enforcement in this country.¹⁷⁸ But in the Canada-United States-Mexico cir-

¹⁷⁵ See Tim Harper, *Canadians Back Chrétien on War, Poll Finds*, TORONTO STAR, Mar. 22, 2003 (discussing Canadian public opinion regarding military action in Iraq).

¹⁷⁶ See generally DAVID MALONE & YUEN FOONG KHONG, UNILATERALISM & U.S. FOREIGN POLICY 251 (2003) (describing protectionist sentiments in the United States Congress).

¹⁷⁷ See Tom Sanderson, *Why Dallas Needs Mexico as a Trading Partner*, DALLAS BUS. J., Sept. 11, 2009, available at http://www.transplace.com/media/Dallas_Business_Journal_Tom_Sanderson_091109.pdf.

¹⁷⁸ See Peanut Butter May be Labeled High Risk, <http://www.cbsnews.com/stories/2009/02/12/health/main4796026.shtml> (last visited Oct. 26,

cumstance, in our three countries in NAFTA, not two, what would be the value or the feasibility of appointing an independent scientific panel to try to resolve these differences?

And we have one on folic acid. We have different levels of folic acid content in breakfast cereals, and this causes a problem.¹⁷⁹ I do not think most people know which the right one is, or whether it makes any difference, but it is a cost, and it is a problem that has to be addressed.¹⁸⁰ How do you resolve those differences? Does a smaller country just say, "We will accept the bigger country's conclusion?" Or do we have an independent scientific capability of determining what the right amount is? And so I wonder whether we might consider having some kind of independent scientific panel.

On the issue of what effects political thinking on border security issues, I guess the first thing I would say is that the presentation did not take into account the fact that political leaders may also be listening to security agencies to Homeland Security. It is not just a matter of public opinion. Public opinion is the worst basis for forming a serious policy. And no serious policy-maker or politician would base that significant policy on the basis of man-on-the-street perceptions. Those perceptions would not make sense. But it seems to me that what really influences the United States in particular is what Homeland Security is telling them what the National Intelligence Council is telling them and other groups, and that is where the influence is coming into play.

The rest is just peripheral stuff it seems to me. So I wonder, simply saying that politicians are afraid to act because of what Lou Dobbs says, I think that is a gross oversimplification that they are taking a position because what they hear from Homeland Security and the intelligence that we do not have access to I assume but actually can identify situations where a crisis is being averted or something of that sort.

So while it is nice to know that the man on the street has certain feelings, I do not think that is a basis for political action on a serious policy.

MS. MATTHIESEN: Well, on protectionism, since that is near and dear to my heart, I will take that question. The NAFTA decision on the trucking dispute from the White House with Buy America, the two huge issues for the lobbyist and trade association and coalition meetings I went to all of last week and the week before. The trucking one, because it is a reflection of "Is

2009) (describing deaths from salmonella found in peanut butter).

¹⁷⁹ See Food and Drug Administration, Food Standards: Amendment of Standards of Identity for Enriched Grain Products to Require Addition of Folic Acid, http://www.foodrisk.org/downloads/FR/1996/FR_V61_N44_P8781-8797.htm (last visited Oct. 26, 2009) (discussing how Canada prohibits the fortification of folic acid in some products).

¹⁸⁰ *Id.*

this a reflection of the next four years and Mr. Obama’s decision to take on his own Democratic party on the hill on what battles and on what wars?” But yes, I agree with you that the Mexicans’ decision certainly drew attention to the issue. I am not sure it is going to solve it in the long-term, but all of a sudden they were woken up and got recognized. On the trend of protectionism in general, every bone in my body about trade policy and border management in the last twenty years yells and screams at me to say, “Oh, please, do not go down this path.” United States, Canada, or any other country. But you can see all over the world that is the path that we have taken because it is a viscerally understandable path. How do you turn that beast around? I do not know. But when Jay Myers, my president, was in Washington last week, he was asked, “What are you hearing from your members, and what are you hearing from politicians back in Canada?”¹⁸¹ And they were asked about the Ontario Energy Act, the Green Act that has “buy local” provisions in it, and the two private member Parliament bills, bills in Parliament.¹⁸² It sends chills down people’s backs because it is so hard to turn that around once you go down that road. But it gets noticed, absolutely.

MR. STORER: I do not think my need for folic acid changed when I moved from Montreal to Bellingham. Maybe my need for vitamin D supplements did, but that is because I moved to a more cloudy climate rather than because I moved from Canada to the United States. I am not a nutritionist but it seems we should get a list of all those differences in standards and have independent scientists explain why they are different, and provide an objective opinion on the need for either country to change their standards.

MR. NANOS: Just quickly on some of the points that you made about Canadians not following American policy. There are paradigms and there were times, like under the Mulroney Administration, where Canadian-American foreign policy was not aligned say, for example, in South Africa or even on the environment. Yet at that time, we negotiated the Free Trade Agreement. There are many significant issues where Canadians and Americans agree to disagree. In regards to your comment about the advice from Homeland Security, it reminded me of the Eisenhower’s closing speech when he said, “Fear the military industrial complex.”¹⁸³ We know what Americans went through in the ‘60s and ‘70s. I would say, and this is my personal opinion, that the pendulum has swung. I would say, “Fear Homeland Security and the institution that is being built up and the interests that are there.” Can

¹⁸¹ See Reuters, Group Warns Buy American Measures Threaten U.S. Jobs, <http://www.reuters.com/article/COMSRV/idUSN1151183920090611> (last visited Oct. 26, 2009).

¹⁸² See Ken Neumann & Rick Smith, *Ontario Energy Act Can Create Jobs; Hamilton Could Benefit From Good Green Goals*, HAMILTON SPECTATOR, May 19, 2009, at A11.

¹⁸³ President Dwight D. Eisenhower, Farewell Address to the Nation (Jan. 17, 1961), available at <http://www.cs.ucdavis.edu/~rogaway/classes/188/materials/eisenhower.pdf>.

we dismiss public opinion? I am saying that public opinion should not be driving it, but what public opinion indicates is that this is worth discussion in a different way than what is happening now. Canadians and Americans are not experts; they never are experts on many of these issues. But from my perspective, the issue is on the table now to develop solutions, allow the experts to do that.

MR. KOLUNDZIC: Thank you very much. We have about one-minute remaining are there any final comments or thoughts?

MR. ROBINSON: I just had one small comment to one of David Crane's questions which is interesting. It reflects a good outcome to a sort of bad situation.

As Canadians know, Prime Minister Chrétien, his government refused to go to Iraq.¹⁸⁴ A lot of Canadians, and I do not think many Americans at all know, that the side deal that was done by a member of our advisory board, the Honourable William C. Graham, then Minister of Defense of Canada; or was he International Affairs?¹⁸⁵ I cannot remember; one or the other was with Colin Powell. We are not going to Iraq, but we will go to Afghanistan. We are now stuck in Afghanistan, Canadians are dying like mad over there, but the United States is very happy with the fact that we did it. President Obama has now put Afghanistan at the top of his list above Iraq, and more troops are going to go in and work with Canadians in Afghanistan.¹⁸⁶

So I guess what I am really saying is Canadians and Americans do deals on the side, and that is how we work this out. And that is what I think we should be doing rather than slapping \$2.4 or \$4.2 billion worth of duties on the United States as the Mexicans did, which I do not think is going to get them anywhere.¹⁸⁷

MR. KOLUNDZIC: Thank you. I will conclude the panel with that. According to the schedule, we have a Research in Motion BlackBerry break, so I will officially start that break right now.

¹⁸⁴ See Tim Harper, *supra* note 175.

¹⁸⁵ See WILLIAM C. GRAHAM, *AFGHANISTAN: CHALLENGES AND OPPORTUNITIES FOR CANADA'S FOREIGN POLICY 7-8* (2008), available at http://www.rcmi.org/archives/otter%20and%20commentary/08-1%20Otter_Graham.pdf (describing Graham's career in Canadian government).

¹⁸⁶ See Barbara Starr, *Obama Approves Afghanistan Troop Increase*, <http://www.cnn.com/2009/POLITICS/02/17/obama.troops/index.html> (last visited Oct. 26, 2009).

¹⁸⁷ See Tom Sanderson, *supra* note 177.