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# Enhancing the Canada - United States Gateways and Corridors: East, West and Within

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## ENHANCING THE CANADA-UNITED STATES GATEWAYS AND CORRIDORS: EAST, WEST AND WITHIN

*Session Chair – Chios Carmody*

*Canadian Speaker – Sean O'Dell*

*Canadian Speaker – David Oxner*

*United States Speaker – Hugh Conroy*

### INTRODUCTION

*Chios Carmody*

MR. CARMODY: Ladies and gentlemen, we would like to get underway with this ultimate panel in the conference, “Enhancing the Canada-United States Gateways and Corridors: East to West and Within.”

I am Chios Carmody for those of you I have not already met. I am actually filling in for John Terry who was newly appointed to our advisory board. John is a Toronto lawyer with the law firm of Torys LLP. John was unable to make this particular session and therefore sends his regrets, but he would like to extend on his behalf and on behalf of his firm a very warm welcome to all of you, and a very great thanks to Henry for having invited him to this particular session and the chairing duties in it.

This session is, as entitled, about gateways and corridors. And it might sound a little odd, and perhaps, fanciful, to think that in a North American environment, there are such things that exist. After all, as the Admiral said last session, thinking about trying to build a fence across Lake Erie is impossible, so how is it that we are going to build gateways and corridors along -- at least as long a distance? But in fact such infrastructure is being built in a way to channel traffic between our countries in many different ways.

And we have three extremely experienced and knowledgeable individuals who are joining us today to speak on this topic. To my immediate right is Hugh Conroy. Hugh is a project manager with the Whatcom Council of Governments, also known colloquially and affectionately in Washington State as WCOG. Hugh is with WCOG. WCOG is a metropolitan planning

organization in Bellingham,<sup>1</sup> and Hugh will be speaking to us on a number of matters related to gateways and corridors.

Hugh has a Public Policy and Management degree from Carnegie Mellon University and a received his undergraduate degree from the University of California Berkeley.

Seated next to Hugh is David Oxner. David Oxner was appointed as the Executive Director of the Gateway Initiative with the Province of Nova Scotia in 2006. He has held a number of important positions with a number of varied and distinguished entities, including the Departments of Tourism, Culture, and Heritage, and Economic Development in Nova Scotia. And he has also worked with the City of Dartmouth, the Halifax Board of Trade, Day & Ross Transport Group, and the Toronto-Dominion Bank.

Finally, and certainly not least, we have with us today Sean O'Dell. Sean is the executive director of the Windsor Gateway Project with Transport Canada. Sean has more than 25 years of experience working with governments, international organizations, and multinational companies. He has occupied positions with the government of Alberta, with the Economics Department of the University of Western Ontario where I am now employed, and he has also been with Natural Resources Canada and as the chief economist of the International Energy Agency in Paris, France. And one could well imagine that working as the chief economist with the International Energy Agency in Paris, France, one might not have a lot of energy for one's work, but apparently Sean did.

So without any further ado, we will proceed in order. Sean, please go ahead.

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<sup>1</sup> See Whatcom Council of Governments, <http://www.wcog.org/> (last visited Oct. 18, 2008) (WCOG is primarily responsible for meeting transportation planning requirements specified in the Washington State Growth Management Act (GMA) and by the U.S. Department of Transportation's Federal Highway Administration (FHWA) and Federal Transit Administration (FTA)).

## CANADIAN SPEAKER

*Sean O'Dell\**

MR. O'DELL: Thank you. I just want to give a bit of an update overview of the Windsor-Detroit Crossing project or the Detroit River International Crossing, DRIC, one of the worst acronyms I have ever encountered but we seem to be stuck with at the moment. That is with an I, not an E.

And anyway, I guess we are going to have time for questions at the end of this as well, so I will sort of move through and try to bring you up to date as to where we are in our project.

The Bi-national Transportation Partnership is a four-party organization made up of the federal governments of Canada and the United States, and the state of Michigan and the province of Ontario, all represented by the various transportation departments,<sup>2</sup> in the case of the United States federal government through federal highways, which is a part of USDOT.<sup>3</sup>

The purpose of our study was to establish additional capacity crossing the border in Windsor-Detroit area, across the Detroit River. Certainly following September 11th, 2001, but even before then, it became increasingly obvious that capacity constraints were going to start to bite on the Detroit River crossing.

At the moment, there is one bridge.<sup>4</sup> It is about 80 years old, a four-lane bridge, and there is a tunnel which was only two lanes which is also of a similar vintage, around 80 years old.<sup>5</sup> The tunnel is not able to handle large

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\* Sean O'Dell is currently the Executive Director of the Windsor Gateway Project with Transport Canada. Mr. O'Dell has more than 25 years of experience working with governments, international organizations and multi-national companies. In addition, he has considerable experience in developing broad strategic assessments and recommendations in a wide variety of financial, economic and policy areas. Over the past 25 years, Mr. O'Dell has occupied positions with the Government of Alberta Treasury in Edmonton, Alberta; in the Economics Department of the University of Western Ontario in London, Ontario; with Natural Resources Canada in Ottawa; as Chief Economist of the International Energy Agency (OECD) in Paris, France; and as a private consultant based in Paris, France and Toronto, Canada.

<sup>2</sup> Detroit River International Crossing Homepage, <http://www.partnershipborderstudy.com> (last visited Oct. 18, 2008) ("The Canada-U.S.-Ontario-Michigan Border Transportation Partnership (the Partnership) consists of the U.S. Federal Highway Administration, Transport Canada, the Ontario Ministry of Transportation and the Michigan Department of Transportation.").

<sup>3</sup> *Id.*

<sup>4</sup> See Monica Davey, *A Detroit Bridge's Private Ownership Raises Security Concerns*, N.Y. TIMES, Oct. 12, 2007, at A18 (discussing the volume of goods and traffic that cross the Ambassador Bridge).

<sup>5</sup> See generally Patricia Zacharias, *The Building of the Ambassador Bridge*, DETROIT

modern trucks so some 99 percent of the truck traffic going across the Detroit River uses the Ambassador Bridge.<sup>6</sup>

The purpose of the DRIC study then is to address the long-term regional transportation mobility needs. We need new border crossing capacity as I have said, and we need to integrate this whole system into the existing infrastructure. Now we run into some particular difficulties in Windsor, which I will talk about in a couple of minutes.

In terms of the importance of this crossing, some 28 percent of Canada-U.S. trade goes across the Detroit River,<sup>7</sup> and as I said, it uses almost entirely the existing Ambassador Bridge; over 80 percent of the goods that are shipped go by truck.<sup>8</sup> There is also a truck ferry, but the use of that is essentially restricted to hazardous materials transportation.<sup>9</sup>

We have in the neighborhood of three-and-a-half million trucks or some 10,000 trucks a day crossing the bridge, and about 10 million cars, which is a combination of tourists, but also commuter traffic.<sup>10</sup> There are a fair number of people that live in Windsor and Detroit but work on the other side of the border.<sup>11</sup> So there is a steady kind of morning and afternoon rush hour traffic as well. That is more equally shared between the tunnel and the existing bridge.<sup>12</sup>

I cannot overstress the importance of this crossing to the economies in both of our countries. And this is not just a Windsor-Detroit or even a

NEWS, Jan. 21, 2002 <http://info.detnews.com/redesign/history/story/historytemplate.cfm?id=13> (discussing the construction of the Ambassador Bridge in the late 1920's).

<sup>6</sup> See *New Border Crossing Planned for Detroit*, WASH. TIMES, Dec. 27, 2005, <http://www.washingtontimes.com/news/2005/dec/27/20051227-120941-3773r> ("An average of 10,000 trucks per day now cross the Ambassador Bridge, and another 1,400 trucks daily pass through the Detroit-Windsor Tunnel.").

<sup>7</sup> Why is a New Border Crossing Needed? Detroit River International Crossing Study Draft Environmental Impact Statement, <http://www.partnershipborderstudy.com/pdf/us-reports/Section%201.pdf> (last visited Oct. 18, 2008).

<sup>8</sup> *Id.* (Seventy percent of U.S.-Canada trade is conducted via trucks).

<sup>9</sup> *Id.* at 1-3.

<sup>10</sup> See *Keeping the Border Secure: Hearing on Examining Potential Threats Posed by Cross Border Trucking Before the Subcomm. on Transportation Security and Infrastructure Protection of the H. Comm. on Homeland Security*, 110<sup>th</sup> Cong. 3 (2007) (statement of Gregg M. Ward, Vice President, Detroit-Windsor Truck Ferry) (testifying that the Ambassador Bridge has "over 9,000 trucks and 15,000 passenger cars crossing it each day.").

<sup>11</sup> See *Why is a New Border Crossing Needed?*, *supra* note 7, at 1-9 ("Seventy-nine percent of the people crossing the border in cars are making 'local' trips between Detroit and Windsor.").

<sup>12</sup> See DRAFT Level 2 Traffic Operations Analysis of Practical Alternatives, Detroit River International Crossing Environmental Assessment Study (Nov. 2006), [http://www.partnershipborderstudy.com/pdf/DRIC-Level%202%20Report%20\(Draft\).pdf](http://www.partnershipborderstudy.com/pdf/DRIC-Level%202%20Report%20(Draft).pdf), at 14-15 (illustrating the amount of passenger cars that used the Ambassador Bridge or the Detroit-Windsor Tunnel each day in 2004).

Michigan-Ontario issue, and it is certainly not restricted just to the auto industry as you might think, given where it is located. In fact, if you rank the U.S. states by the volume and value of trade going across the Ambassador Bridge, you get the usual suspects at the top of the list - Michigan, Ohio, Indiana, and Illinois.<sup>13</sup> But coming in fifth is actually Texas<sup>14</sup> and coming in sixth is California.<sup>15</sup> So we are in fact shipping goods from all of Eastern and Central Canada, across the Ambassador Bridge at the moment, across the Detroit River, and they are going to all parts of the United States.<sup>16</sup>

I think as Ambassador Wilson pointed out at the lunch, some 35 states see Canada as their largest export market.<sup>17</sup> Not only in terms of value of goods, but also through the employment impacts associated with that trade.

In terms of Ohio, since I am in Ohio, we focus a little bit more. Ohio exported about \$18 billion in goods to Canada in 2006 and imported about 15.3.<sup>18</sup> It is the second.<sup>19</sup> Canada is Ohio's largest export market,<sup>20</sup> and the trade is almost equivalent to the state's export sales to all other countries combined.<sup>21</sup> Some 275,000 jobs -- it is a very precise number, 276,500 -- about 275,000 jobs in Ohio are supported by Canada-U.S. trade.<sup>22</sup>

In addition, more than half a million Canadians visited Ohio in 2006, spending over a hundred million dollars here, and in turn, Ohio residents made 700,000-plus visits to Canada spending about \$280 million.<sup>23</sup>

The approach we have taken is a coordinated bi-national environmental assessment. It has been thorough, open, and transparent. We have had well over 200 meetings and public sessions over the past three years dealing with all issues of the environmental file. So certainly air pollution, noise pollution,

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<sup>13</sup> See generally EASTERN BORDER TRANSPORTATION COALITION, TRUCK FREIGHT CROSSING THE CANADA-US BORDER (Sept. 23, 2002), <http://www.ebtc.info/PDF/Executive%20summary.pdf>, at 7 (illustrating the balance of trade between Canada and individual states).

<sup>14</sup> See generally *id.*

<sup>15</sup> See generally *id.*

<sup>16</sup> See *id.* at 4 (illustrating the movement of trucks carrying goods between Canada and the United States).

<sup>17</sup> Michael Wilson, Can. Ambassador to the U.S., Address at the Canada-United States Law Institute Annual Conference: The Longest Secure Border in the World—Canada and the United States (Apr. 18 2008) (transcript available at <http://geo.international.gc.ca/can-am/washington/ambassador/080418-en.asp>).

<sup>18</sup> State Trade Fact Sheets 2007: Ohio, Government of Canada, [http://geo.international.gc.ca/can-am/washington/state\\_trade\\_2007/ohio-en.asp](http://geo.international.gc.ca/can-am/washington/state_trade_2007/ohio-en.asp) (last visited Oct. 18, 2008).

<sup>19</sup> See EASTERN BORDER, *supra* note 13 (stating that, as of 1999, Ohio is the fourth largest importer of Canadian goods).

<sup>20</sup> State Trade Fact Sheets, *supra* note 18.

<sup>21</sup> See *id.* ("Ohio sent more than half its exports to Canada in 2006").

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

you would expect at long, busy corridors like this, but also analyzing any cultural impacts we might have depending on where we actually choose to locate the bridge.

We have met with government groups and other government agencies. We have met with the private sector, we have met with special interest groups in terms of community impacts, and we have met with a large number of environmental organizations who have concerns about making sure that the impact of this new crossing is adequately mitigated so that the impacts, while there will be some, will not be severe.

It is necessary of course that we choose the same bridge location on the Canadian and U.S. sides. It would not be at all appropriate for us to have half a bridge going one way and half another and not meeting in the middle, and so we have had a very detailed coordinated process throughout.

We are approaching the end of the environmental assessment phase of the project and should be announcing the final location of the new crossing sometime mid June to mid July time period. We are just trying to finalize the last few things that are necessary to make that announcement.

On the U.S. side, the draft environmental impact statement, or the DEIS, was published in the Federal Register on February 29.<sup>24</sup> That started a 60-day comment period, which will wrap up at the end of April. There is a possibility for that comment period to be extended, but we will not know that until the end of April as to whether or not anybody has petitioned to be allowed some more time to provide additional comments. Barring that, then, I say we would be in a position to announce the new crossing location by the middle of June.<sup>25</sup>

This is just a very busy little schematic that shows all of the kinds of agencies and cross-reference work that we have been doing over the three years. You will see all sorts of U.S. and Canadian regulatory agencies as well as first nation groups or Aboriginal groups, the Indian tribes on the U.S. side as well as all sorts of -- as I said -- environmental and other local interest groups that have an interest in the file. More than 200 meetings have been held in the past three years. All public, all open to anybody who was interested.

Our evaluation factors include protection of community and neighborhood characteristics, consistency with existing and planned land use, protection of cultural resources, protection of the natural environment - the

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<sup>24</sup> Environmental Impact Statements—Notice of Availability, 73 Fed. Reg. 11112 (Feb. 29, 2008).

<sup>25</sup> See News Release, Transport Canada, Binational Effort One Step Closer to a New Border Crossing Between Windsor and Detroit (June 18, 2008), <http://www.tc.gc.ca/mediaroom/releases/nat/2008/08-h146e.htm> (discussing the proposed new bridge location).

air and the noise and so on, improvements to regional mobility and then, finally, cost and constructability. So we have not put cost at the top of our equation, but we certainly do take it into consideration in choosing where the ultimate bridge location will be.

The assessment has gone through developing initially a set of crossing alternatives, which I can show on this next spaghetti slide here. What you can see if you can take a look at it is this green line over on this right-hand side from you is the 401 Highway in Windsor, and you can see that it ends just outside the city limits there. That was a decision that was made more than 40 years ago -- in fact, going on 50 now -- not to put the highway right through into the downtown part or down to the river itself.<sup>26</sup>

So from that point, what we need to do on the U.S. side is to connect into the interstate system so this whole spaghetti map sort of showed all of the road possibilities on the Canadian side to get us from the 401 to a new crossing, the various crossing alternatives, and we looked at some 15 of those to start, and then the connections that would get you from the bottom of the bridge into the U.S. interstate system. The current situation with the Ambassador Bridge -- which I will try to point out here, it is a little fuzzy -- is here. And it does not connect. There are about nine kilometers - so it is somewhere over six miles - between the end of the 401 and the Ambassador Bridge, so some 10,000 trucks a day are going down essentially city streets.

Anecdotally, you can drive from Montreal to Texas and hit exactly 17 stop lights, 16 of them on this road. Now as you can imagine from a local pollution point of view, that is fairly serious because all of these 10,000 trucks a day are starting, stopping, starting, stopping. In other words, they are running at their least efficient method. So the local air pollution and noise pollution and so on has really become an increasing burden for the communities that surround that corridor.

After two years or so of work, we managed to eliminate most of the crossing alternatives and focus down onto this little sunspot area in here. So again you can see with this option the 401 Highway ending. The yellow section will be a new six-lane limited-access freeway that will connect the 401 directly into the new customs plazas.

It is hard to tell because, of course, the width of this is highly exaggerated in terms of scale, but it will actually parallel the city streets, and it will be essentially a below-grade highway with some 10 or 12 short bridges you might call them, or sometimes they are called land bridges and some of them are found in national parks.

So whereas, at the moment, the 10,000 trucks a day have effectively cut the communities on one side away from or off from the communities on the

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<sup>26</sup> See generally The King's Highway 401, <http://www.thekingshighway.ca/Highway401.htm> (last visited Oct. 18, 2008).



other side, we are also hoping to try to reestablish those connections which have not really existed, well, in more than 20 years.

As we approach the border, you can see that we have three lines left as our possible options. The northern one, which gets close to a community called Sandwich in Windsor, which was the oldest permanently-inhabited community in Canada west of Montreal.<sup>27</sup> There is a central location through here and then a southerly location with a longer-skewed bridge that you can see.

The reason we have these three options left is that historically there was a lot of salt mining activity in this area, and they used to mine it before they got into the sort of normal kind of mines that you would think about, the pillar and post approach.<sup>28</sup> They actually used to get the salt out through solution mining.<sup>29</sup> So you drill a hole, you pump in water, dissolve the salt, and pump it out again. 100 years ago and even up to about 50 years ago when we stopped this practice, nobody seemed to think it was terribly interesting to put a map as to where they had drilled these holes. And there are of course from these a lot of salt caverns that have opened up underneath.<sup>30</sup> So we have had to spend about \$20 million drilling holes to determine the nature and the extent of those caverns because you do not want to locate a bridge pier on top of a cavern.

The reason for the southern root then along the skewed one is not just that bureaucrats like to choose the least obvious option. It is that we knew that was far enough south to be out of all of the area where any solution mining took place. The result of our geotechnical analysis has shown in fact that we can build either of these two structures, the two northern ones although the most northern one has some -- as the geotechnical experts say -- anomalies under the approach ramp which would increase cost fairly significantly. We will be able to make the final determination of that route -- as I mentioned before -- somewhere in the mid June to mid July, time period.

This is sort of another schematic of how this crossing could work. You can see that the three orange areas or yellowy areas down here. And I apologize for the fuzziness of some of this, it is actually better on my copy.

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<sup>27</sup> See History of Windsor, <http://www.windsorkiosk.com/history.php> (last visited Oct. 18, 2008).

<sup>28</sup> See Wes Porter, *The Salt of the Earth*, CAN. FREE PRESS, Oct. 15, 2007, <http://www.canadafreepress.com/index.php/article/961> (discussing the abundance of salt in Windsor).

<sup>29</sup> See Foundations Investigations Information Sheet, Detroit River International Crossing Study, <http://www.partnershipborderstudy.com/pdf/Foundations%20Investigations%20Fact%20Sheet.pdf> (last visited Oct. 18, 2008) (explaining the process and effects of solution mining in the Detroit-Windsor area).

<sup>30</sup> See *id.*

Three custom plaza possible locations and the choice of that largely dependent on which bridge crossing we choose. On the U.S. side there is a very large footprint here for a Customs facility, but we will only be taking about half of that depending on which of the bridge options we take. So if we take the center one or the southerly one, we will just be using this part of it.

The Customs plazas will be in the neighborhood of 80 acres each. Both CBP and CBSA on the Canadian side, say that they need about 40 acres to handle their requirements for Customs processing, primary, secondary inspection, and so on. The buffer will provide a security buffer, and it will also provide the possibility for locating related businesses such as Customs brokers or duty-free shops for that matter in there.

You can see as well on the U.S. side that depending on where you put this plaza, we will have to build new interchanges to get us onto the Interstate I-75. But when the project is done, we will essentially be able to maintain highway speed right into the Canadian Customs plaza. If you are a FAST or one of the other program members to get you through the Customs relatively quickly, then you will be able to shoot across the bridge and connect directly into the interstate system or of course vice versa coming from the states into Canada.

On the U.S. side, the community where the Customs plaza will locate is called Del Rey. It is a community that has certainly seen better days. It is quite down on its luck.<sup>31</sup> A lot of abandoned houses and some brown field sites in there.<sup>32</sup> So this is actually going to provide an opportunity for a rejuvenation of brown field sites on the U.S. side.

And also with the part of Del Rey that remains after the Customs facility is built, there will be money put in for rehabilitating and renovating that community to turning it back into a more vibrant community as it once was. This is after all only about a mile-and-a-half from Downtown Detroit, so it is relatively central.<sup>33</sup> At the moment you can buy a house in this area for about \$15,000 or so.<sup>34</sup> You know, in a mile-and-a-half from downtown of a large city, which is I think indicative of the problems the community has come into.

Our objective overall is an end-to-end solution, so we do not want to find ourselves in a situation that exists currently that there are no direct or adequate access into the highway system or into the 400 series or to the

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<sup>31</sup> See *id.* (stating that Delray is one of Detroit's "most hard-scrabble and economically ravished corners.").

<sup>32</sup> See Environmental Justice Case Study: Delray Neighborhood Lawsuits Against Local Polluters, <http://www.umich.edu/~snre492/Jones/delray.htm> (last visited Oct. 18, 2008) (stating that Delray has suffered from mass pollution and that many residents left this area when industrial jobs left southeast Michigan).

<sup>33</sup> See generally *id.*

<sup>34</sup> See *id.* (stating that homes are assessed for approximately \$3,000-\$4,000).

interstate system. So there are in a sense really five main components of the project: the highway extension in Canada, the Canadian Customs facility, the bridge itself across the river, the U.S. Customs facility, and then the interchange into the I-75.

Also conveniently, of course, jurisdictions are different for each one of those components. The Canadian Access Road is the responsibility of the province of Ontario, although the federal government will pay for half of it.<sup>35</sup> The Customs facility is a Canadian federal responsibility only.<sup>36</sup> The bridge will be jointly owned by the Canadian government and the government of the state of Michigan. The U.S. Customs facility is U.S. federal,<sup>37</sup> and the interchange is a Michigan state responsibility, but with FHWA covering about 80 percent of the costs of that.<sup>38</sup> With overlapping jurisdictions, a whole series of cross-guarantees will be necessary so that we can make sure all of the components can be brought into service at essentially the same date.

In terms of our approach to financing this, the road will be paid for by governments as will the interchange on the U.S. side. The two Customs facilities are most likely to be paid for directly by the respective federal governments. But for the crossing itself, we are going to seek a public private partnership as they are now called or P-3 or PPP, whichever terminology you want, or as they say in Ontario, alternative financing vehicles.

And we believe that the total revenues generated by traffic crossing this bridge will be sufficient to more than recover the initial capital cost and to return a reasonable profit to a private sector participant over say a 35 to 40-year concession period. So once we have completed the next phase of the

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<sup>35</sup> See News Release, Transport Canada, The Government of Canada Welcomes the Design Proposal for the Windsor-Essex Parkway (May 1, 2008), <http://www.tc.gc.ca/mediaroom/releases/nat/2008/08-h118e.htm> (“The Let’s Get Windsor-Essex Moving strategy is a \$300-million joint investment by the Government of Canada and the Province of Ontario to improve traffic flow and reduce congestion at the Windsor-Detroit Gateway.”).

<sup>36</sup> See Canada Border Services Agency About Us, <http://www.cbsa-asfc.gc.ca/agency-agence/what-quoi-eng.html> (last visited Oct. 23, 2008) (“The CBSA manages 119 land-border crossings and operates at 13 international airports...administers more than 90 acts, regulations and international agreements, many on behalf of other federal departments and agencies, the provinces and the territories.”).

<sup>37</sup> See Customs.gov, History, <http://www.customs.gov/xp/cgov/about/history/history2.xml> (last visited Oct. 23, 2008) (discussing the U.S. Customs Service as the federal organization responsible for ensuring that imports and exports comply with federal laws).

<sup>38</sup> See Federal Grants Wire, Highway Planning and Construction, <http://www.federalgrantswire.com/highway-planning-and-construction.html> (last visited Sept. 25, 2008) (stating that the FHWA usually contributes 90% of the funding for interstate work, and 80% of the funding for all other projects).

environmental assessment and we have chosen which route it is, then we will be preparing ourselves to take this project to market.

On the Canadian side, the road, which is a much bigger deal than on the U.S. side where it is essentially an interchange that has to be built, it is about a nine-kilometer road -the parkway option as it is now being called. We will try to build a six-lane highway while minimizing community impacts. Of course, it is impossible to absolutely eliminate community impacts, but I think by putting this essentially below grade by building some 10 or 12 of these 200 to 300-meter-wide land bridges and with appropriate landscaping, we can probably not only minimize the community impact but actually in some ways enhance that part of Windsor through the creation of about 200 acres of new park land, some 20-odd kilometers of bike paths and walking paths and so on.

Just one typical view of what that parkway might look like. You can see in the center portion of that the green section, which is one of these land bridges or short tunnels, and there will be some as I say 10 or 12 of these along the route.

Another option showing the below-grade road taking a swing, and you can see beside this that the existing road here remains, and that last would be turned back into a city street. All the truck traffic will be taken off and put onto the new highway extension. And with that, the next steps. Continue to consult with the public as we have been doing, complete our technical and environmental analysis -- it is nearing a conclusion now - prepare for the announcement of the crossing location later on this spring, and then move ourselves forward into the financing stage of our project.

With that, I will wrap up. And here are our contact points, or in fact you can visit our website which contains all of the documentation on the DRIC process, and that is [partnershipborderstudy.com](http://partnershipborderstudy.com). With that, thank you.

MR. CARMODY: Just one question. I wanted to ask what we are looking at in terms of a completion date for the project.

MR. O'DELL: That is a bit hard to tell. We have about a six or seven-year process once we get the contractual arrangements in place between Canada and Michigan on the joint venture arrangement that we propose to manage the marketing of this.

So how much time it takes to get to that point is really a bit of an uncertainty at the moment. Michigan does not at present have the legislative authority to enter into public private partnerships nor do they have the authority at the moment to enter into contractual arrangements with foreign governments.<sup>39</sup> So two pieces of legislation or perhaps a combined piece will

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<sup>39</sup> See generally MICH. COMPL. LAWS §124.504 (1967) (“A public agency of this state may exercise jointly with any other public agency of this state, with a public agency of any other state of the United States, with a public agency of Canada, or with any public agency of the

have to be introduced in the Michigan legislature. That has not yet been done.

So while we are awaiting that, we cannot sign our formal agreements with Michigan, which means we cannot initiate the marketing process for financing.<sup>40</sup> It will actually take about a year, year-and-a-half to design the bridge, and about four-and-a-half to five years to build it.

MR. CARMODY: So just a ballpark then, and to be completely clear, we are looking at a date probably around 2015?

MR. O'DELL: Yes, 2014, 2015 I think is probably a reasonable time. We are looking always at possibilities of trying to shorten that schedule if it is at all possible, and we will take advantage of whatever opportunities present themselves to do that.

MR. CARMODY: Okay. Well, thank you very much. Our next speaker, David Oxner.

### CANADIAN SPEAKER

*David Oxner*<sup>†</sup>

MR. OXNER: So finally I get to present. It is been a long time. I want to bring greetings from the east coast of North America -- or from actually the east coast of Canada. One of the things I just want to mention. In one of the earlier sessions from RIM, a gentleman was talking about the various RIM outlets in North America. He failed to mention the second largest RIM facility, which is actually located in Halifax, and it has been there now for over a year-and-a-half and employs well over I think 1,300 employees.<sup>41</sup> So I want to just point that out because if I did not and I went home, I would regret that I did not bring it up.

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United States government any power, privilege, or authority that the agencies share in common and that each might exercise separately.').

<sup>40</sup> See generally *id.*

<sup>†</sup> David Oxner is the Director of the Gateway Initiative for the Department of Transportation and Public Works and the Province. His executive portfolio includes the following senior assignments: Department of Transportation and Public Works; Department of Tourism, Culture and Heritage; the Office of Economic Development; the former City of Dartmouth; Halifax Board of Trade; McCain Foods Transportation Group; and the Toronto Dominion Bank.

<sup>41</sup> See News Release, Government of Nova Scotia, Research In Motion Officially Opens for Business in Nova Scotia (April, 20, 2006), available at <http://www.gov.ns.ca/news/details.asp?id=20060420003> ("RIM is creating 1,200 new jobs over a five-year period at its technical support operations centre in Halifax").

But I am really honored to be here to present here today talking about the Atlantic Gateway, and hopefully I will not go over my time, and I do intend to show a short video at the end with your indulgence, so let us begin.

Here is an outline of what I am going to cover in terms of what is the Atlantic Gateway. It is kind of the new gateway on the radar screen in Canada. I will talk about the Atlantic Gateway assets and about our advantage.

So let us start out with some basic geography about what is Atlantic Canada. Well, Atlantic Canada includes the four provinces: New Brunswick, Prince Edward Island, Newfoundland and Labrador, and Nova Scotia.<sup>42</sup> We are situated on the east coast of North America on the Atlantic Ocean.<sup>43</sup>

So what is the Atlantic Gateway? Well, the Atlantic Gateway is a partnership with the four Atlantic Provinces, the Atlantic Canada’s Opportunities Agency, Transport Canada, and the private sector.<sup>44</sup> We signed an MOU that commits the governments to work together to develop an Atlantic Gateway strategy.<sup>45</sup> And while the public sector is involved in gate-related activities, the Atlantic Gateway is really a private sector-driven opportunity.<sup>46</sup> It is really the private sector (shipping lines, shippers, and cargo owners) who will decide to use the Atlantic Gateway.<sup>47</sup>

So one example of private sector leadership is the Halifax Gateway Council, which draws its membership from key transportation providers in the Halifax area.<sup>48</sup> Their strategic focus is on four key areas. To grow air

<sup>42</sup> Atlantic Canada Opportunities Agency, About Atlantic Canada, <http://www2.acoa-peca.gc.ca/NR/exeres/ADC7B37D-E82D-494A-9B3E-97DD13B7F477.htm?lang=en> (last visited Sept. 26, 2008).

<sup>43</sup> See *id.* (stating that “Atlantic Canada is the closest ports to Europe along the North American seaboard.”).

<sup>44</sup> Melanie Patten, *Ottawa, Atlantic Provinces Agree on Gateway Strategy*, THE CANADIAN PRESS, Oct. 14, 2007, available at [http://www.redorbit.com/news/technology/1101796/ottawa\\_atlantic\\_provinces\\_agree\\_to\\_develop\\_gateway\\_strategy/index.html](http://www.redorbit.com/news/technology/1101796/ottawa_atlantic_provinces_agree_to_develop_gateway_strategy/index.html).

<sup>45</sup> *Id.*

<sup>46</sup> See Location Canada, Gateways to Canada & North America, <http://www.locationcanada.com/gatewaysToCanada.htm> (last visited Sept. 26, 2008) (stating that the Atlantic Gateway needs to be fueled by the private-sector).

<sup>47</sup> See Mary R. Brooks & Peter Vuillemot, Commentary, *Developing the Atlantic Gateway: A Discussion of the Key Issues*, Atlantic Provinces Economic Council (2007), available at <http://www.apec-econ.ca/pubs/%7B3A30BBAB-5531-45A8-BC17-E0434EDEB417%7D.pdf> (“The development of the Atlantic gateway should be led by the primary stakeholders: the Port of Halifax, terminal operators and transportation service providers that have a direct involvement in the movement of import/export container traffic through the gateway.”).

<sup>48</sup> See Halifax Gateway Council Homepage, <http://www.halifaxgateway.com/index.htm> (last visited Sept. 26, 2008) (The HGC was established by various transportation organizations to “promote growth in the transportation sector and related industries in the Halifax region.”).

passengers and air cargo, cruise ship porting, and also marine containers. Their membership is made up of the Halifax Port Authority, the Halifax International Airport Authority, CN, Armor Transport Group, and many others.

So let us look at a definition of the Atlantic Gateway. Well, Transport Canada as part of their national gateway strategy defines a gateway as a system or marine, rail, road, and air transportation infrastructure of national significance for international trade.<sup>49</sup> So that is the federal model that is being used.<sup>50</sup>

So now let us look at some of the key Atlantic Gateway assets from a Nova Scotia perspective. And the first one is obviously the Port of Halifax, and it has been mentioned several times over the last couple of days. We are strategically located as a first-in and last-out port on the North American continent for Suez Canal routings.<sup>51</sup> It is the deepest container port on the east coast of North America.<sup>52</sup> It is uncongested with capacity to grow, and it offers a time and cost advantage due to its strategic location. If you remember earlier on Friday, Garland Chow talked about Prince Rupert and its time advantage. Well we have a similar scenario in the Port of Halifax. It has on-dock rail and twice-daily double-stack service into Montreal, Toronto, and Chicago.<sup>53</sup>

75 percent of all inbound cargo is transported via rail to Quebec, Ontario, and the U.S. marketplace.<sup>54</sup> The U.S. cargo represents about 17 percent of volumes of the Port of Halifax.<sup>55</sup> So the port has worldwide connections. And speaking of connectivity, here's a trade profile for the Port of Halifax. And you can see by the slide it has a very diverse market mix in terms of its trade profile.

<sup>49</sup> See generally Transport Canada, National Framework Policy Foreword, <http://www.tc.gc.ca/GatewayConnects/NationalPolicyFramework/nationalpolicy2.html> (last visited Sept. 26, 2008) (discussing the purpose of the National Framework Policy for Strategic Gateways and Trade Corridors).

<sup>50</sup> Transport Canada, Canada's Atlantic Gateway, <http://www.tc.gc.ca/GatewayConnects/Atlantic/AtlanticGateway.html> (last visited Sept. 26, 2008).

<sup>51</sup> See Greater Halifax Partnership, Port of Halifax, [http://www.greaterhalifax.com/en/home/businessresources/other\\_resources/transportation\\_infrastructure/port\\_of\\_halifax.aspx](http://www.greaterhalifax.com/en/home/businessresources/other_resources/transportation_infrastructure/port_of_halifax.aspx) (last visited Sept. 26, 2008) (stating that the Port of Halifax is the first destination traveling down the Suez Canal).

<sup>52</sup> *Id.*

<sup>53</sup> Port of Halifax Media Fact Sheet, <http://www.portofhalifax.ca/english/news-and-events/media-fact-sheet/index.html> (last visited Oct. 20, 2008).

<sup>54</sup> See generally *id.*

<sup>55</sup> See *id.* (stating that the Port of Halifax trades 12% of its containers with North America).

Halifax has two container facilities, the first one, which was built back in 1969 and is now owned by Macquarie infrastructure Partner of New Zealand, is located on a 72-acre facility, and features 3 deep berths up to 16 meters, and is capable of handling the world's largest ships.<sup>56</sup>

It currently has capacity around 750,000 TEUs or 20 foot equivalence and with the potential increase to 1.5 million TEUs.<sup>57</sup> It has six ship-to-shore cranes, and current container storage capacity on site, of about 17,000 TEUs, and it has 8,000 feet of double-stacked on-dock rail.<sup>58</sup> And also right now it has 300 in-ground reefer outlets, and they are planning to expand to 500 over this summer.<sup>59</sup>

The next container terminal is Cerescorp Container Terminal that is built on 70 acres and has six cranes and two berths at 55-feet depth.<sup>60</sup> It has on-dock rail, which has recently been doubled to 12,000 feet, and a new state-of-the-art truck handling facility.<sup>61</sup> Its throughput is about 250,000 TEUs, with the capacity to expand to 700,000 TEU units.<sup>62</sup> It is able to store about 9,000 TEUs on dock, and it has 500 in-ground reefer outlets.<sup>63</sup>

So one of the questions around this session was are we a gateway or are we a checkpoint? And I would argue that to some degree the Atlantic Gateway's a little bit of both. U.S. and Canadian federal agencies work in cooperation to ensure checks and balances are in place

Ship manifests are shared ahead of time, and targeting of specific containers is completed as well. Both container terminals have on-dock scanning equipment. U.S. Customs agents are on-site, and as a result, U.S. containers are cleared through Halifax on-site before they actually leave the

<sup>56</sup> Port of Halifax, South End Container Terminal, <http://www.portofhalifax.ca/english/port-at-a-glance/facilities/south-end-container-terminal.html> (last visited Sept. 28, 2008).

<sup>57</sup> See generally *id.* (stating overview of the South End Container Terminal).

<sup>58</sup> See *id.* (stating that the South End Container Terminal has a container storage capacity of 12,500 TEU's and the terminal has about 9,000 feet of trackage).

<sup>59</sup> *Id.*

<sup>60</sup> Port of Halifax, Fairview Cove Container Terminal, <http://www.portofhalifax.ca/english/port-at-a-glance/facilities/fairview-cove.html> (last visited Sept. 9, 2008).

<sup>61</sup> Tom Peters, *Terminal Operators, Port Authority Pump Millions of Dollars into Box Facilities*, CANADIAN SAILINGS, Sept. 17, 2007, available at [http://www.accessmylibrary.com/coms2/summary\\_0286-32902236\\_ITM](http://www.accessmylibrary.com/coms2/summary_0286-32902236_ITM).

<sup>62</sup> Press Release, Cerescorp Company, Cerescorp Purchase Two New Super Post Panamax Cranes for Halifax Facility (Mar. 20, 2006), available at [http://www.seaportspr.com/viewtechnews.cgi?newsletter\\_id=48&article\\_id=2187](http://www.seaportspr.com/viewtechnews.cgi?newsletter_id=48&article_id=2187).

<sup>63</sup> Fairview Cove, *supra* note 60 ("500 in-ground outlets"); See Andrea MacDonald, *Executive Overview: Atlantic Maritime*, WORLD TRADE MAGAZINE, Apr. 6, 2006, available at [http://www.worldtrademag.com/Articles/Feature\\_Article/b458ab331207a010VgnVCM100000f932a8c0](http://www.worldtrademag.com/Articles/Feature_Article/b458ab331207a010VgnVCM100000f932a8c0) ("The 70-acre Fairview Cove Container Terminal, operated by Cerescorp Company, provides on-site storage for 9,000 TEUs.").



terminal dock. So that is important not only for the Atlantic Gateway and U.S. shippers to have a smooth transition at the U.S. border. And I think Friday night at the dinner there was a couple of banners that said something about meet us at the border. Well, in our case, you can meet us at the border, but we can get your containers directly to your door so there is no need to meet us at the border. As well, Public Safety Canada provides policy leadership and delivers programs in areas of national security for emergency management and law enforcement.<sup>64</sup>

I mentioned that we have a very diverse market mix, but our focus in the Atlantic Gateway is really growing traffic through the Suez Canal because that is where we see a lot of opportunity for Suez Canal-based traffic that is destined for the North American marketplace.

So we are focusing most of our marketing and sales efforts in and around the break-even line which is shown here which hopefully is dissecting Thailand properly, but anything to the left of that break-even line, it is actually faster and shorter to go through the Suez Canal to get to the North American marketplace. Halifax is actually 1,500 nautical miles closer to India than any other North American port,<sup>65</sup> so that fact gives us a strategic geographic advantage.

There are also two private sector initiatives underway that are in different stages of development within Nova Scotia. One is at the Strait of Canso in a community called Melford. And the other one is located at the former military base in Sydney, and these are two green field sites that are looking at being developed. I would say currently right now the Melford one is much further ahead to open a new facility or start digging in the ground actually sometime later this year.

The other asset that we have is CN rail. It is the best connected of any railway in North America.<sup>66</sup> It is the only North American railway that touches all three coasts: the Atlantic, the Pacific, and the Gulf.<sup>67</sup> They have an extensive intermodal network with inland terminals in all major Canadian cities and U.S. Midwest cities.<sup>68</sup> We have daily service for dry and refrigerated cargo to all inland terminals.<sup>69</sup> And we have the fastest overall

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<sup>64</sup> Public Safety Canada, Who We Are, <http://www.publicsafety.gc.ca/abt/wwa/index-eng.aspx> (last visited Sept. 26, 2008).

<sup>65</sup> See Port of Halifax, India Connections, <http://www.portofhalifax.ca/english/port-business/cargo/india-connections/index.html> (last visited Sept. 9, 2008) (“Via the Suez Canal, Halifax is 1,840 nautical miles closer to India than any ports on North America’s west coast.”).

<sup>66</sup> Canadian National Railway, Where You Can Ship, <http://www.cn.ca/en/shipping-where-you-can-ship.htm> (last visited Oct. 23, 2008).

<sup>67</sup> *Id.*

<sup>68</sup> See *id.* (stating the CN Rail reaches all of Canada and 14 states).

<sup>69</sup> See Canadian National Railway, Consumer Goods, <http://www.cn.ca/en/shipping-consumer-goods.htm> (last visited Oct. 23, 2008) (CN fleet consists of 8-foot dry containers,

transit time to U.S. Midwest market.<sup>70</sup> So consider this, CN rail transit time to Chicago, which is the third-largest city in the United States, is just 71 hours.<sup>71</sup>

So a presentation on the Atlantic Gateway would not be complete without mentioning the Robert L. Stanfield International Airport. It is the closest major continental North American link to the EU,<sup>72</sup> and it offers overnight trucking to the eastern seaboard of United States and also to Central Canada.<sup>73</sup>

And speaking of 9/11, part of the topic of this session around border security, this is a picture of Halifax International Airport during 9/11. Halifax received more than 40 diverted aircraft during 9/11, more than any other Canadian airport, and we were the first to have planes back in the air, proving we can handle challenges and demands. The other area in the Atlantic Gateway that is growing as well is the trans-loading sector, and we have some of Canada's largest retailers using the Atlantic Gateway Consolidated Fast-freight, an international company, has just built a 65,000-square foot trans-loading warehousing facility in Halifax with the additional capacity to expand that by another 60,000 square feet.<sup>74</sup> And they are processing about 500 marine containers per week for their client Canadian Tire, a Canadian retail shopping chain<sup>75</sup> and as well the Armor Transport Group runs a similar facility for the Canadian Retail Shippers Association, which is a conglomerate of companies that includes Sears, Eddie Bauer, Roots Canada,<sup>76</sup> that form together to carry out their logistics.

53-foot containers, and temperature-controlled protective equipment).

<sup>70</sup> See generally CN Does It Against-Chops 24 Hours Off Chicago-Vancouver Inter-Modal Service, BUSINESS WIRE (Jan. 24, 2001), [http://findarticles.com/p/articles/mi\\_m0EIN/is\\_ai\\_69434882](http://findarticles.com/p/articles/mi_m0EIN/is_ai_69434882) (discussing the Canadian National Railroad's increase in speed between Canada in Chicago).

<sup>71</sup> Port of Halifax and CN Brochure, <http://www.portofhalifax.ca/downloads/HalifaxCNBrochure.pdf>.

<sup>72</sup> Airports Council International-North America, Weekly E-Newsletter (May 14, 2008), <http://www.naylorntwork.com/aci-nwl/update-v2.asp?projid=1378>.

<sup>73</sup> See generally Halifax Stanfield International Airport, About the Airport, <http://hiaa.ca/default.asp?mn=70.1.11&id=190&pagesize=1&sfld=MenuId&search=11> (last visited Oct. 3, 2008) (discussing the airport's access to United States markets).

<sup>74</sup> Kevin Beaudry, Steven Caldwell & Erik Charton, Industrial Report, [http://www.dtzbarnicke.com/client/JJB/JJB\\_LP4W\\_LND\\_WebStation.nsf/resources/GV+2007+-+Sector/.../Industrial+Report.pdf](http://www.dtzbarnicke.com/client/JJB/JJB_LP4W_LND_WebStation.nsf/resources/GV+2007+-+Sector/.../Industrial+Report.pdf) (last visited Oct. 1, 2008) ("Consolidated Fast Freight is building a 90,000 square foot state-of-the-art transload, distribution and warehouse centre in the Burnside Industrial Park in Halifax and its twin just outside Edmonton in the Acheson Industrial Park.").

<sup>75</sup> See generally *id.*

<sup>76</sup> Canadian Retail Shippers Association, Members, [http://www.crsalog.com/ship\\_members.htm](http://www.crsalog.com/ship_members.htm) (last visited Oct. 1, 2008).

So the Atlantic Gateway has a geographic advantage. We are well connected to the North American marketplace by road, rail, air, and water. Out of Halifax there is a fair amount of short sea shipping that occurs between Halifax, St. Pierre, Miquelon into Newfoundland into Cuba and the Caribbean.<sup>77</sup> And as well there are ongoing discussions with the ports in Hamilton and Thunder Bay regarding short sea shipping service into the Great Lakes.<sup>78</sup>

So in closing, I want just to point out some of the advantages that the port has. Again it is a geographic advantage of its distance. It is ice-free, deep, and offers a competitive route to North America. We have had labor stability in the port for over 30 years, no business disruption. There is a seamless border connection with the United States.

Thank you.

#### UNITED STATES SPEAKER

*Hugh Conroy*<sup>†</sup>

MR. CONROY: Well, thank you, and noting that the name of the panel is “East, West, and Within,” I guess I am West. And given the group I work with, maybe I am more *on* than *within*. But we will get into that.

As Chios said, my organization, the Whatcom Council of Governments, is located in Bellingham, Washington, about 25 miles south of the border. We are, as he also mentioned, a metropolitan planning organization (MPO), and it is as an MPO that, since 1997, we have been lead agency of the International Mobility and Trade Corridor Project (IMTC).

<sup>77</sup> See Canadian High Commission, Shipping Options From Canada - Barbados and the Eastern Caribbean, <http://www.infoexport.gc.ca/ie-en/DisplayDocument.jsp?did=24144> (last visited Oct. 2, 2008) (discussing the companies that ship from Canada to the Caribbean).

<sup>78</sup> See TRANSPORT CANADA, SHORT SEA SHIPPING: AN ONTARIO PERSPECTIVE 9 (2003), available at <http://www.tc.gc.ca/pol/en/acf/shortseaS/workshop/Report3WSRodTaylor.pdf> (discussing the possibility of creating cross-lake ferries at the Port of Hamilton and the Port of Thunder Bay).

<sup>†</sup> Hugh Conroy is a project manager at the Whatcom Council of Governments (WCOG), a U.S. metropolitan planning organization in Bellingham, Washington. For 11 years, his work has centered on the WCOG’s leadership of the International Mobility and Trade Corridor Project (IMTC)—a binational and cross-border transportation planning coalition. Ongoing regional coordination and multi-agency project delivery through the IMTC Project have covered a variety of United States-Canada cross-border trade and travel issues. Public and private entities, working through the IMTC, continue to identify priorities for the regional border gateway, plan improvements, assemble project funding partnerships, and cooperatively oversee implementation of several initiatives.

The prospective source of core financial support at the outset of IMTC was the Coordinated Border Infrastructure Program (CBI), a U.S. federal program out of the U.S. Federal Highway Administration. Luckily for us, that bill passed in 1998 and IMTC was subsequently selected for funding through a competitive application process.<sup>79</sup>

It is from a lot of the policy work that went into forming the CBI that IMTC gets its notion of gateway. I think it has been evident, as we have all been talking here, that our notions of gateway differ a bit. In IMTC's case, we adopted a definition presented in a 1994 report to Congress which evaluated the transportation needs expected along the U.S.-Canada and U.S.-Mexico borders resulting from NAFTA induced increases in freight and transportation demand. In this context, a gateway was seen as a regional *set* of border-crossings which serve a "binational economic region."

So in our case, our gateway that we focus on is four ports of entry. On the west there, the Peace Arch Douglas Port of Entry which is actually limited to passenger vehicles, but serves the main interstate corridor between I-5 and BC Highway 99. Pacific Highway Port of Entry, which while a full-service crossing is also the main commercial port of entry in our region. And then 10 miles -- and 10 miles again to the east, Lynden-Aldergrove and Huntingdon-Sumas.

So what I am presenting for this conference is, I think, an example of how, at a regional gateway level, U.S. and Canadian border stakeholders and managers can coordinate and partner to more effectively manage operations and even financing of our cross-border connections.

We heard a lot yesterday and as well today about several of these programs, FAST, NEXUS, C-TPAT, et cetera, at a very U.S.-Canada border-wide level. Hopefully some of my comments will describe how at a regional level how those are supported and hopefully enhanced when you have regional players sitting down at the table and coordinating these things.

Just to briefly go through some characteristics of IMTC without getting too much into the formation. It is not a formally-structured organization. It is a voluntary coalition established for the purposes of identifying mutually-desired improvements to cross-border transportation and inspection systems. It is balanced between U.S. and Canadian participants from all levels of government, industry and non-governmental sectors, and has a three-tiered organizational structure; I will just briefly go through some of the membership.

On a monthly basis we convene our steering committee, which typically looks like about 25 to 30 folks around the table. It includes the state and provincial transportation agencies; both country's regional, federal inspection

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<sup>79</sup> David Smullen, *TEA-21: An Historic Piece of Legislation*, Federal Highway Administration, <http://www.tfrc.gov/pubrds/septoct98/tea21.htm>.

service representatives, CBP and CBSA; Transport Canada and U.S. Federal Highway Administration from their regional offices; both Consulates General, out of Vancouver and Seattle participate. And then other agencies as well like the GSA, Government Services Administration, in the U.S. and several of the Washington and B.C. at border municipalities such as Surrey, Blaine, Sumas, Abbotsford, et cetera, and then several regional non-governmental organizations as well.

Our IMTC core group is where we bring in our industry representatives; also legislative staff from both countries at the various levels of government, primarily our federal folks is the core group is our decision-making body. On an annual basis we revise and update a project priority list and come up with revisions to our objectives. This is the tier that signs off on that. But again, it is a voluntary and informal organization, so this is very much a process built around consensus and relationships.

Other participants I did not mention here are duty-free stores, chambers of commerce, and then other state offices. Earlier comments were made about work between provincial premiers and state governors. That is certainly been going on in Washington state, and has driven some newer contacts with those offices.

Then our third tier is our General Assembly. This is basically an annual meeting. /we have a mailing list of about 600 or so folk-- businesses and individuals who depend on a functional cross-border system. This is a chance for them to hear sort of an annual report from the inspection agencies and transportation agencies about progress on projects and also provides a chance for these agency managers to hear back from stakeholders about what current concerns.

At the top of the slide there you see a typical steering committee meeting, a big surprise there. And then out in the field, just an example of some of our agency representatives coordinating. I think that was regarding the FAST lane installation on southbound 543 of Pacific Highway.

I wanted to put this slide up again just to go back to the concept of gateway and emphasize that by organizing around these four ports of entry and going off of some of the objectives set out, again in that policy piece and subsequent coordinating border infrastructure legislation, we try to focus on these four ports of entry as a regional border crossing system, really moving beyond just looking at a project-by-project basis from one crossing to one crossing.

IMTC looks at it as an interrelated system serving a mixture of travel and trade serving multiple modes and co-existent with other transportation options. Rail, marine, pipeline, and even the Internet come up a lot when looking at impacts on traveler flow.

And I, too will pause on the question of whether this is a gateway or a checkpoint. Sort of seemed obligatory coming to this conference. I think

from the perspective of this IMTC coalition I also need to give the answer that: it is a little of both. And the reason I need to say that is because as we look to identify needs for improving this gateway, we identify projects that are of common interest across the coalition. All of our agencies have their own specific missions, but we need to find improvements that are mutually supportable and universally beneficial.

And I will just throw this slide up there. It is one I show folks just to put agency names on all the different pieces and functions operating at the port of entry. It gets to some of the things you are talking about, this question of gateway or checkpoint. . Our border *is* functioning as a gateway on a day-to-day basis. Around our IMTC table participants probably see it as trending more towards a checkpoint. And I will touch on some of the data we have that supports that conclusion.

I was transitioning to a review of projects, so instead of going through the multitude of projects that IMTC has advanced since 1997 -- and I do not mean to say we, IMTC, or WCOG have necessarily implemented these projects although my office has been involved directly in some of them -- the individual agency participants are the ones that actually will implement a project like a FAST lane extension or something of that nature.

So from the beginning there has been very strong support for data collection and management. Early on in 1999, 2000 we did the region's first cross-border origin-destination and commodity-flow study. This project was the first comprehensive vehicle intercept survey of both travelers and freight, getting very valuable baseline data on all sorts of traffic forecasting metrics.

We have also done market research and outreach for preclearance programs like NEXUS and FAST as well as installations of in-lane vehicle detectors used for advanced traveler information systems and data collection.

We have also advanced infrastructure improvements. Some of those projects include extension of the FAST and NEXUS lanes as congestion worsened as uptake of those programs continued to rise. Access to the lanes or the booths themselves was failing, and so both -- or all the agencies around the border did a great job coordinating on ways to extend those. With all the various businesses that you see on the screen there, there were lots of access issues to deal with as well.

We have also just completed -- took about a little over a year -- an incident response communications protocol. This gave a framework for both the inspection agencies on both sides of the border, the State DOT or the Ministry of Transportation, the Washington State Patrol, the RCMP, to come up with a very organized way to communicate amongst each other in the incident of a border closure either initiated by one of the inspection agencies or one of the law enforcement or transportation agencies. Behind this face sheet, there are a few pages of different schematics depending on how such an event would initiate, and then the follow-up response on that.

This was something that we got a lot of uptake on by the governor premiere work, and so we are happy to get that wrapped up, a lot of back room checking on who could sign and what it was. And then I figured this would be a good slide to bring to a conference at a law school since it has a little blue corner on the top and the signature by the attorney.

Lastly, I just want to mention that, in looking at the border as a system, we take into account multiple modes. I mean, we have a consistent understandable attention paid to the road mode and trucks, but in trying to ensure continued capacity at this port of entry, we want to make sure as we plan for the future we are taking full advantage of the rail mode which is there on Burlington Northern Santa Fe and the obvious marine options that are in our area.

So in 2002 we did a feasibility study of what market there was for expanding our current car-load bulk rail services to double stack, intermodal--at least between Vancouver and Seattle and then markets beyond. We also did a short-sea-shipping study that we wrapped up in 2005, very much compatible with the trilateral initiative between Canada, U.S., and Mexico on that front. But ours was a much focused look at, again, the corridor between Vancouver and Seattle and points beyond. And a lot of interesting issues came up there which people have spoken to through the conference, but that is a whole other presentation I suppose.

The coalition make-up of IMTC really gets to how these projects have been advanced. The slide up on the screen now shows the financial side, that cumulative project expenditures, at least between 1999 and 2006. As the profile of our gateway has risen over time and different federal programs have become available, especially in Canada.

With several border infrastructure improvements undertaken in the last several years, IMTC has proven valuable in helping implement those programs and coordinating things like construction schedules and travel information plans that serve both sides of the border. But, overall, on the screen there you see very strong leverage of funds and contributions on projects between Federal Highway Administration, Transport Canada, B.C. province, Washington state, and even local municipalities and other agencies like TransLink in British Columbia.

I want to touch on a couple projects we have started recently. One is what we are calling our cross-border circulation analysis. This is a close-up view so you can get a sense of the east-west connector roads that exist between the four Cascade Gateway ports of entry. There are some upcoming events if you read the U.S. Chamber, Canadian Chamber report. One of their concerns is construction of Peace Arch and resulting capacity issues at the Lynden-Aldergrove border crossing. There is a lot of attention on expanding operations at the Lynden-Aldergrove crossing--which is the one right there in the center--along with traveler information systems and the flexible routing

options that become available for freight when e-manifests get more fully adopted in both directions. So we want to make sure that the east-west connector roads are up to that type of demand, so we are going to be advancing a set of recommendations for infrastructure and ITS improvements to affect that.

One of the data collection efforts that we were fortunate enough to do recently was a redo of our year 2000 traveler intercept survey in conjunction with the Western Washington University Border Policy Research Institute. We were able to put student teams of surveyors out again, with great cooperation from the inspection agencies, getting out in the vehicle queues on the bottom of the slide there, even in the NEXUS lane this time around. So we had the PACE and Canadian CANPASS program when we did this before in 2000 but were not able to survey those lanes. But this time we also got great information about the demographics and the trip patterns of NEXUS lane travelers. Again this data will feed into lots of things, but especially that circulation analysis that I mentioned.

I mentioned yesterday in the Q and A after a panel that we had, in addition to the southbound FAST lane -- and this (on-screen picture) is again Pacific Highway looking north. In addition to the southbound FAST lane, we also have a northbound FAST lane now. One of the IMTC projects that we got federal highway funding for was outreach and marketing of the FAST program. We wanted to make sure that once infrastructure was available, it was getting taken advantage of as much as it could.

Washington State Department of Transportation recently finished a northbound FAST lane, and so with the remaining funding in that project, we are trying to do another push to identify the carriers and shippers who should be taking advantage of this program northbound. In our area though -- I do not think we have -- as I also mentioned in the question the other day -- the same kind of integrated manufacturing processes driving the freight as much. And so it is been very difficult to get uptake in the FAST program from the shipper community. And so the bulk of registrations with FAST tend to be in the driver and career realm. So, most of the FAST traffic is empty traffic.

So we want to, at least at the front end of our marketing push, really make sure that empty trucks are taking advantage of this infrastructure. And those percentages of empty trucks moves can be high, so we hope to have an impact. The southbound lane is doing okay. The northbound lane needs some more uptake so we hope we can affect that.

Just to touch briefly again on the gateway vs. checkpoint question, I mentioned I would turn to some data to illustrate some of our findings. With the support of various agencies and for a couple different reasons, we have had two opportunities to do a pretty detailed assessment of commercial vehicle throughput time, both southbound and northbound, through the Pacific Highway Port of Entry.



The first such study was done in the year 2002 out of the U.S. Department of Transportation Office of Intermodalism. They contracted SAIC, and it was really just a very large-scale cost-benefit analysis of expected ITS improvements. And by the time they got around to doing the observations on the ground, it was the FAST program that had been announced as the upcoming pre-clearance program. We had plans to do something similar, but I am sure the FAST program got on the ground and running faster than our program would have, thanks to the obvious focus on security.

So, in 2002 -- and I am going to focus here just on the processing rate portion of the field survey -- the average processing rate of trucks at the primary commercial booth southbound was 57 seconds a truck, and that is in 2002. When we did this in 2006 four years later -- and again both of these years are post-9/11 -- processing for general trucks had increased more than double to 120 seconds per truck and the FAST trucks, which we expected would have a much easier time getting through at the booth, the inspection time was 87 seconds per truck. So still significantly higher than regular truck traffic inspection times had been just four years earlier and also after 9/11.

I guess sort of taking that to Todd's comments, the only positive response that we are left with is, well, at least FAST is still faster than general today. But it is not -- you know, it did not move us forward if we were comparing ourselves to pre-9/11 or even 2002.

And the answer we have gotten from our Customs partners who are very open about these results is that "we are just doing more now." And so to some extent, gateway or checkpoint, we work all these coordination issues, but sometimes we are just getting as much optimization as we can along the way. So, it is kind of hard to compare results from year to year with some of these dynamics changing the way they do.

That is where I will wrap up for now. Thanks.

MR. CARMODY: Before I open the floor to questions and comments on our wonderful presentation that we have had, I wanted to ask each of our speakers this afternoon if there is perhaps one lesson that each of them might want to focus on that we might learn from in trying to create gateways and not checkpoints?

MR. O'DELL: One lesson, I am not sure. I think the way we have approached it at least at the Detroit River International Crossing Project has been very systematic, and I think that is a good thing. These are very, very complicated files, and then certainly in our case we are dealing with four governments, and there are international aspects of which laws are going to apply, and where they are going to apply are all important. Given as well heightened security interests from the last time anybody build this kind of international crossing. We have paid a lot more attention to CBP, CBSA requirements, and other parts of Homeland Security and Canadian security organizations as well. I think one thing that we have done well was to bring

in all of the community, industry, and other groups very early in the process so that there is really no opportunity for people to complain that their voices have not at least been listened to. Not that we have taken all of the recommendations that have come, but we can certainly I think point successfully to having involved all of those necessary groups and stakeholders from all across the spectrum early in the process and continuously throughout the process.

MR. CARMODY: David, any observations?

MR. OXNER: Yes. I think what is different about the Atlantic Gateway versus the Asia-Pacific Gateway or the Windsor Trade Corridor is we are not congested. We would love to have that congestion, but we do not have it. So we are pursuing an economic opportunity, the emergence of the Suez Canal as the third all-water route to the North American marketplace.

And I think in our case what has worked well is the partnership with Transport Canada and the partnership with the private sector. I mean, at the end of the day, it is going to be the private sector that is going to decide, as I said earlier. Whether or not they are going to move a box over Halifax or whether they are going to move air cargo out of the airport.

So we have had a very strong working relationship with the four provincial governments: the federal government, Transport Canada, and the private sector working together to the point where Minister MacKay who is the Minister of National Offense and also the Minister of the Atlantic Canada Opportunities Agency led a mission to India in February 2008. There was representation from each one of the provincial governments, Transport Canada, and we had 14 industry people on with us.

The spirit of cooperation and the unity that sometimes the four Atlantic Provinces do not exhibit on a regular basis was to the point where the Indian business people who we meet with, it was very transparent to them. So I think, in terms of going forward in our particular case, I think the key piece has been working in cooperation with the four Atlantic Provinces, the federal government, and the private sector.

MR. CARMODY: Hugh, any thoughts?

MR. CONROY: Looking back at some of the projects I touched on at the beginning of our coalition, I do not think a lot of those things could have been done. It really took a couple years of having meetings, Federal inspection agencies and transportation agencies on both sides of the border, to really just get to know each other and get some comfort and trust there.

So I guess one of the most important ingredients – and this is not about creating the transportation system itself, but certainly about making it hook up to the highest optimal outcome. So it boils down to -- and I know it sounds corny -- but relationships in this regional context. When we got to a point where we wanted to install in-road vehicle detectors for both northbound, southbound with the lead agency being the Ministry of

Transportation and Washington State Department of Transportation, we needed those loop detectors to be pretty much on the periphery and to some extent inside of the footprint of the inspection agency's lanes and up into their booth.

No way could we have had that discussion without a few years of consultations and meetings under our belt. And like the slide with the students working right next to the PIL booths, we had a meeting with both port directors. They have been in the process long enough to know that any data that IMTC or our office collects is going to be a shared product, and they have used the results already of previous work. So the history of those relationships and discussions just keeps sustaining the momentum and the ability to move things ahead that we have. So that has been the critical ingredient I think.

MR. CARMODY: Okay. Well, we have some time now for our questions and comment from the floor. Catherine, go ahead.

#### DISCUSSION FOLLOWING THE REMARKS OF SEAN O'DELL, DAVID OXNER AND HUGH CONROY

MS. PAWLUCH: Catherine Pawluch from Toronto. My question relates to the crossing. Thanks very much for your presentation, Sean O'Dell. It was very interesting. And the fact that the crossing itself as I understand will be a 3-P, a public private partnership.

The tolls that will be charged at the crossing - is it contemplated yet or has any decision been made as to whether the presumably private sector operator that will operate that crossing will have complete discretion and control over the rates that are charged?

And I ask that question in the context of, I mean, I was really taken aback by the fact -- and I learned this actually a couple days ago -- that 30 percent of the trade that Canada has with the U.S. crosses at the Detroit River.<sup>80</sup> I mean, this is a very significant infrastructure asset that we are talking about. I am actually kind of surprised that the private sector is being brought in because I think it is going to be a great investment for somebody.

But I am very interested in hearing whether any thought has been given yet to who is going to control the charges, and if the answer, Sean, is that it has not been determined yet, I would be very interested in hearing from the three panelists, you know, from a public policy perspective who should control the toll rates on that very significant infrastructure asset.

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<sup>80</sup> See The Detroit-Windsor Border, <http://www.detroitchamber.com/detroiter/articles.asp?cid=103&detcid=233> (last visited Oct. 15, 2008) ("In 2001, 23 percent of the total surface trade between Canada and the United States (\$347 billion) crossed the border between Detroit and Windsor.").

MR. O'DELL: Okay. Well, we have not of course finalized all of our undertakings yet. We are certainly inclined toward providing greater freedom than less freedom to the private sector.

We have, I think, a potentially unique opportunity on the Detroit River. The existing bridge is privately owned,<sup>81</sup> and at the moment, as I mentioned, it takes some 99 percent of the commercial traffic crosses the bridge.<sup>82</sup>

There is not any really good competition for that bridge at the moment. You would have to go up to Port Huron, Sarnia to find an alternative. And while that might be convenient for companies that are either shipping from or to London, Ontario and north of that, it does not really provide an alternative effectively.

The result of that I think has been that the owner of the existing bridge has been able to exercise a certain regional monopoly control, and the tariffs at the Ambassador Bridge are the highest of any crossing between Canada and the United States.<sup>83</sup>

By allowing the private sector to operate and set the tolls for a new crossing, the competitive environment that that creates should in fact lead overall to a reduction in those tolls. So our inclination is not to get involved in toll setting. You know, if you get into that kind of a regime, you run into is a lot of difficulties in terms of trying to attract private sector participation. You know, we find ourselves -- we would find ourselves in the situation where the private sector has no effective control over the demand for their service. It will be what it will be. And if you take away any ability to set their own toll rates, you effectively eliminated control over the entire revenue side of the equation there.

So we are leaning toward that, but I would caution again that the final agreements have not been signed, and I suppose there is a possibility for some modification of that policy position that Transport Canada's policy position is that the private sector should set the tolls.

MR. CARMODY: Any other responses to Catherine's question?

MR. OXNER: In the province of Nova Scotia, we have one toll highway,<sup>84</sup> and I agree with what Sean said. It is the private sector who built and operated their highway. My understanding is the Province receives revenue if traffic hits a certain target level. You know when you are doing private public partnering; you cannot tie the private sector's hands. You have

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<sup>81</sup> Davey, *supra* note 4.

<sup>82</sup> See New Border Crossing Planned for Detroit, *supra* note 6 ("An average of 10,000 trucks per day now cross the Ambassador Bridge, and another 1,400 trucks daily pass through the Detroit-Windsor Tunnel.")

<sup>83</sup> Ben Lefebvre, *The Battle of the Bridge*, DETROIT METRO TIMES, May 24, 2006, available at <http://metrotimes.com/editorial/story.asp?id=9236>.

<sup>84</sup> Toll Roads News, Nova Scotia Cobequid Pass-Toll 104 Opens, <http://www.tollroadsnews.com/node/2950> (last visited Oct. 15, 2008).

to leave it fairly open. And as Sean said in his answer, in the competitive environment, that should work itself out.

The previous premiere was against toll highways; so we had a moratorium. The existing toll highway was built under the liberal government and was initially not well received. Now I think people have come to accept it -- it is there. People appreciate the highway. It is a very good highway. And the Province is investigating the possibility of developing other toll highways within the province.

We have hired a company from Vancouver that is coming in and looking at assessing a whole number of toll opportunities or public-private opportunities I should say within the province in terms of moving forward because the Build Canada fund, which is a fund that is administered by Sean's department, contains an area devoted to P-3 programs, and so we are looking at a number of opportunities for building potentially hospitals, toll highways, and the like.

MR. CONROY: We do not have any tolls in our area. As one of our port directors is fond of saying, we build our roads on the dirt. That always strikes me as funny. But I guess the closest thing we have is the NEXUS program, which is to an extent a fee-based crossing alternative. And then there are processing fees on the commercial side that I am sure you have, too.

But you know, thinking of ways to dream about such things, I guess it would be nice if we could get to a point where the price of things like NEXUS and the setting of those prices, are equally considerate of benefits to the transportation system, the same way we do a business case for adding a lane somewhere so that if there are throughput capacity benefits from a program like NEXUS, perhaps the price could be lower to achieve that system-wide transportation benefit.

MR. CARMODY: David.

MR. CRANE: David Crane. I had a couple of questions if I may. The first has to do with the Windsor project. It was sort of a depressing message in this respect would be talking about doing something since the 1990s. Here we are saying we may have something by 2015. That underlines the fact that our whole process of planning projects and things of this nature is hopelessly out of date, and I hope that we would learn something in that respect. It should not have had to take this long to come to this fruition. And we see the same thing with the Peace Bridge and the Port of Erie-Buffalo area again. We have been talking about that for over a decade now. We seem to be no closer to getting that one settled. So there is something wrong with the way we approach the projects, and I hope that we can get something out of that.

My question on the Windsor project would be to ask what kind of future traffic event underlies the planning for the size of the bridge, and the expressway lane access into Highway 401. The assumption should be that this will be the only bridge that will probably come into service before 2015.

So the planning has to look 20, 30, 40 years beyond the opening of the bridge.

We already have a very congested Highway 401 with limited opportunities for widening that highway in many sectors, so it would be interesting to know what kind of traffic planning is anticipated for this project whether or not despite this bridge being built we will have to have other forms of access. You know, why cannot we move automotive parts or automobiles from the GM plant in Ottawa down into the Great Lakes states by barges or ferries instead of having to go onto the system? And I do not know whether this project takes into account the other modal possibilities in terms of the bigger picture of how we move all kinds of vehicles in a growing economy.

And secondly, just on the Windsor thing, if we are going to have so-called competition, and we are bit skeptical of the light handed approach that is planned, I think the public will want to be assured that government has some recourse to prevent excessive profiteering on a project of this sort. But does this mean because we have got ever sizing competition that the investors in the Ambassador Bridge will not be allowed to have any participation in this other bridge? Otherwise, we are not going to have competition, as the same people would be involved in both.

And my other question is for David on the Atlantic Gateway project. And that is since you have got four provinces involved and a limited amount of money, how do you avoid the trap of having to spread your efforts too thinly among all the different projects or vocations, each of which want a bit of that federal money. How do you maintain a discipline to focus basically on the Port of Halifax because we are already hearing stories that Dartmouth wants this and other people want that?

MR. CARMODY: Well, maybe Sean, if you wanted to --

MR. O'DELL: I hope I remember all of the subparts of your questions. Certainly there have been discussions since the early '90s about bringing in a new crossing across the Detroit River.<sup>85</sup> In fact, I can remember as a child in the '60s that there were discussions then about whether or not additional capacity should be done. And I suppose it raises the interesting question - what kind of planning went into building this Ambassador Bridge in the first place 80 years ago? They certainly could not have been forecasting the level of traffic that they have today.

We did undertake a fairly-detailed planning needs and feasibility study before we embarked on the environmental assessment component, and that demonstrated that under I think quite plausible assumptions about the

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<sup>85</sup> See *French Company Ponders Possibility of 2<sup>nd</sup> Bridge Over the Detroit River*, THE RECORD, Aug. 9, 1991, at A3 (discussing in 1991 the possibility of a second bridge being built).

ongoing growth in the U.S. and Canadian economies and the increasing integration of our two economies that the traffic would certainly be there. That study is looking at the long-term, and quite frankly, I have almost zero interest on whether short term traffic is up, down, or sideways. We are worried already about 30, 40, 50 years into the future and that is where we see that kind of capacity constraints really biting.

The biggest capacity constraint in Windsor right now is, to be honest, not the Ambassador Bridge. It is the road connection that forces trucks to stop at all these stop lights and throws everything down there. And because of the way the city has grown up since the Ambassador Bridge was first built, it is actually almost -- well, I would not say it is impossible to turn that existing road into a highway on one side of the Ambassador Bridge the University of Windsor has built up all around that, on the other side, the historic community of Sandwich prevents us from expanding on that side.

The congestion is such that the secondary inspection on the Canadian side of the Ambassador Bridge cannot be located on the Customs plaza. It is located some three kilometers off site, which leads to all sorts of security concerns when trucks are referred to secondary.

In terms of getting things done faster, I know there has been a lot of discussion, but we really started our project about three years ago. I think a lot of people might comment three years seems a long time to undertake an environmental assessment, but we are dealing with three separate laws, all of which have to be adhered to: the NIPA process in the U.S., the Ontario Provincial Environmental Assessment Act, and the Canadian Federal Environmental Assessment Act. So all three of those have to be satisfied. And taking your point on the discussions that have gone on around twinning the Peace Bridge, I think one of the reasons that is more than 10 years behind schedule is that they did not adequately follow all of the required steps in the environmental assessment process and they were forced to start over again. There is a big problem there, and we do not want to find ourselves in that condition with this bridge.

As to the other things, well, I am not the engineer, but the engineers tell me it is four-and-a-half or five years to build a bridge in the year or a year-and-a-half to design it,<sup>86</sup> so even once we get the company on board, there is a six to seven-year process that we still have to go through. Our projections show that the capacity on the Huron Church Road, Talbot Road corridor that

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<sup>86</sup> See News Release, Oakland County Michigan, Patterson and Francis Announce Support for DRIC Downriver Border Crossing Project (July 9, 2008), *available at* [http://www.partnershipborderstudy.com/pdf/2008-07-09\\_Patterson\\_Francis\\_Announce\\_Support\\_for\\_DRIC.pdf](http://www.partnershipborderstudy.com/pdf/2008-07-09_Patterson_Francis_Announce_Support_for_DRIC.pdf) ("The timeline for the project calls for property acquisition in 2009, construction starting in 2010 and the opening of the border crossing in 2014.").

currently takes traffic from the Ambassador Bridge, is going to get very problematic by about 2015, and if the road network collapses, then the border effectively collapses as well. Was there another --

MR. CARMODY: There was on the competition.

MR. O'DELL: On the competition, yes. We are not planning to restrict anybody from bidding on the P-3 option, but the enhancement of competition on the border will be one of the selection criteria. Now I have heard that law firms and accounting firms have a concept of Chinese walls by which one part of the company can be doing things that the other is kept unaware of if you will.<sup>87</sup> I suppose the owner of the existing bridge could make a case that they are able to do that, and we would have to assess whether or not we believe those kind of checks and controls would be in place. But I have to say we are still away from that bidding process, and so far the owner of the existing bridge has not displayed any particular interest in participating in our project, and rather they are putting forward a proposal to close their existing bridge and replace it with a six-lane bridge there.

Our projections would indicate that what we want to do, we have always assumed the Ambassador Bridge will stay there, so we are going from four lanes to 10 lanes crossing the Detroit River. Our numbers I think are robust enough that if we went from four lanes to 12 lanes, i.e., we had two six-lane bridges, that would not pose a particular problem over the longer run although initially it would be a bit thin from the revenue side.

MR. CARMODY: David.

MR. OXNER: Yes. Thank you for that question, it is a good one. And we had a study that was commissioned by the Atlantic Canada Opportunities Agency looking at the different modes, and it came out and clearly and said the biggest opportunity for the Atlantic Gateway was around marine containers. And in terms of the container business, Halifax definitely serves as a gateway now because a gateway definition is really an entry and exit point where the goods move beyond the point of origin to a destination.

Halifax is the third-largest container terminal in Canada,<sup>88</sup> and the Port of St. John realizes that they are not directly competing with the Port of Halifax. Captain, Al Soppitt, who is the head of the Port Authority in St. John, New Brunswick works very closely with Karen Oldfield, who is the CEO of the Port of Halifax. And Newfoundland really relies on short sea shipping on a service called Oceanex which has its home operations in Montreal. Oceanex

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<sup>87</sup> See Chinese Walls, [http://www.ing.com/group/showdoc.jsp?docid=074106\\_EN&menopt=cog%7Cgpc%7Cchw](http://www.ing.com/group/showdoc.jsp?docid=074106_EN&menopt=cog%7Cgpc%7Cchw) (last visited Oct. 15, 2008) (“‘Chinese Walls’ are the invisible ‘walls’ between business units within a single company to prevent conflicts of interest when employees of two or more business units serve the same client.”).

<sup>88</sup> Halifax Gateway, <http://www.greaterhalifax.com/en/home/halifaxprofile/growthsectors/halifaxgateway.aspx> (last visited Oct. 15, 2008).



ship container to and from Newfoundland and Labrador via the ports of Montreal and Halifax.

So in terms of the container piece, there is a well-recognized understanding that is really basically about the Port of Halifax, and that our competition is really the New York and our U.S. ports southwest, it is not really the Atlantic-Canada ports. So any improvements that we make to the Port of Halifax have a positive impact on the region because the region uses the port

And what is interesting about the Port of Halifax, I show the inbound market mix. We have an export surplus in that 55 percent of our cargo right now are actually exports, and that could be much higher, but the problem is that it is hard to get an empty container and hard to book slots on ships. So part of the remedy is to bring more ships in so we can gain access to more empties and more slots. The Port of Halifax handles a lot of Atlantic and Central Canada cargo.

Back to your question whether there is recognition about the value and the role that the Port of Halifax plays both in the region and in terms of the country - I think that is the piece that strategically keeps us all glued together. We have sat down with the other provinces and identified from a Nova Scotia perspective what we see as some gateway initiatives that we have put forward and talked to our colleagues at Transport Canada. We have shared that list with the other Atlantic Provinces, and they have been supportive of our interests because again as the Port of Halifax becomes more efficient and more effective and has more access to more markets, that helps businesses both in the region and nationally.

Thank you for the question.

MR. CARMODY: Now there were some questions up in the middle.

MS. FREEDMAN: Catherine Freedman from the University of Buffalo. I have a question for David. Your presentation suggests that a critical element in leveraging the strategic position of the Port of Halifax is the Suez Canal, and I am just interested in hearing about your thoughts on how the political realities in the Middle East and the volatility and actually even, you know, something like the pirating off the coast of Somalia, figures into the calculus?

MR. OXNER: The instability in the Middle East has traditionally occurred in the northern part of the Middle East, and there has not been any disruption around the Suez Canal for quite some time.<sup>89</sup> It is a fairly stable environment there. We have met with the vice chair of the Suez Canal

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<sup>89</sup> See generally MSN Encarta, Suez Canal, <http://encarta.msn.com/encnet/refpages/RefArticle.aspx?refid=761578705> (last visited Oct. 15, 2008) (stating that the canal was last closed during the Six Day War of 1969 and was reopened in 1975).

Authority. They actually have their own police and military forces.<sup>90</sup> That canal is not only delivering goods to the North America marketplace, but also a lot of European cargo, the largest container vessel afloat actually sails through the Suez Canal, the Emma Maersk, which can carry 14,000 TEUs transverse through the Suez Canal on its way to Hamburg, Rotterdam, and the European marketplace.

The Suez Canal is a vital link in the water route trade for both Europe and North America, and while a tragedy can strike anywhere, but from a stability point of view, that area of the world is very stable. When is the last time you heard of a disruption on the Suez Canal?

Right now roughly about 69 percent of containers coming into North America currently come in through the west coast ports of North America.<sup>91</sup> About 20 percent come through the Panama Canal, and a remaining balance, around 11 percent, is coming through Suez Canal. Anyways the stability thing is not an issue, but like I said, something can always happen, somewhere that can have an impact.

MR. CARMODY: Yes.

MR. ANDERSON: Hi. Bill Anderson, soon to be in Windsor, but my question is for David actually about Halifax.

You are saying it is about 17 percent of your business was service to the United States?

MR. OXNER: Yes.

MR. ANDERSON: And is that mostly by rail going into the Great Lakes states?

MR. OXNER: It is pretty well -- a high majority of its rail, yes. We are a rail port. We have on-dock rail and about 75 percent of our volume in and out goes on rail.

MR. ANDERSON: But in service into the northeastern half would be truck, right?

MR. OXNER: Yes. Or short sea shipping.

MR. ANDERSON: That was my question.

MR. OXNER: There have been numerous attempts to establish what we call a feeder service traditionally, between Halifax, Saint John, NB, Portsmouth, New Hampshire, Portland, Maine, and Boston. The most recent one was one that was started up by a Icelandic company called Einskip,

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<sup>90</sup> See generally Egypt State Information Service, Performance of Suez Canal Authority discussed (Feb. 20, 2008), available at <http://www.sis.gov.eg/En/EgyptOnline/Economy/000009/020200000000000008338.htm> (last visited Oct. 15, 2008).

<sup>91</sup> See Third Party Logistics, U.S. West Coast Ports Face Dilemma, <http://www.3plwire.com/2007/03/20/us-west-coast-ports-face-dilemma> (last visited Oct. 15, 2008) (“The port complex of Los Angeles-Long Beach is the gateway for 70 percent of US imports”).

which unfortunately bought a North American company called Atlas Cold Storage that they intended to flip as an investment vehicle, but they bought it at a time when the Canadian dollar surged, and so all of a sudden that service disappeared again. But there is another group that is actually looking now at doing a short sea shipping piece back into New England because there is traffic volume there and there is a lot of truck traffic that currently carries various commodities into the New England marketplace.

So short sea shipping is something that the Maritime Provinces kind of grew up on before the advent of the rail service, commodities moved freely between the Atlantic Provinces, New England, and the Caribbean. When the rail came on, it switched to on rail from water. When the rail disappeared to some extent, it went back to trucks.

But I think that we are seeing, for environmental and cost reasons, there is a lot of opportunity to go back and look at short sea shipping as a way to move cargo, we have a fair bit of short sea shipping that goes from Halifax, Newfoundland, Saint Pierre, Miquelon, into the Great Lakes and into the Caribbean as well.

MS. IRISH: A question for Sean, whose probably expecting this from the city of Windsor.

Given the likely increase in traffic along the Huron Church, Talbot Street entrance, would it not be a good idea to tunnel that as the city of Windsor is requesting?

MR. O'DELL: Even the city of Windsor has backed off from their initial demand that the entire nine kilometers be tunneled, and they have come up in their proposal with a series of land or bridges really. I think when we reveal the details of our road you will find that we have moved a lot toward that direction. It is not exactly that kind of a proposal, but many of the concepts have been incorporated. The problem with building the entire thing tunneled - there are actually a couple of major problems. One, the water table in Windsor is very high,<sup>92</sup> and it would be awfully expensive from a permanent drainage point of view. There are issues associated with safety and security in long tunnels, and most emergency measures organizations, fire and so on, tell you fairly bluntly that if you have a tunnel that long and there is a major accident in the middle of that tunnel, do not bother calling them until the fire has gone out because they will not send their people into that kind of dangerous zone.<sup>93</sup>

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<sup>92</sup> See Detroit River International Crossing Study, Tunneling, <http://www.partnershipborderstudy.com/pdf/PIOH%205%20Tunnelling.pdf> (last visited Oct. 15, 2008) (stating that a high water table is one obstacle to building tunnel from Detroit to Windsor).

<sup>93</sup> See generally Frances Kennedy, *Death Toll in Tunnel Fire May Not be Clear for Weeks*, INDEP., October 27, 2001, available at

About seven, eight years ago there was a major fire in one of the tunnels under the Alps going from Switzerland into Italy, and it took them almost three weeks before they could send people in until the heat had diminished enough to be able to handle that.<sup>94</sup> We are looking for a permanent solution here, and we do not want to create some additional problems.

I think you will find there is one reason why on a lot of the infrastructure deals you have seen recently, nobody is particularly interested in getting involved in tunnels. The security risks are viewed as -- safety concerns are viewed as just too significant.

MR. CARMODY: Last question from Michael Robinson.

MR. ROBINSON: I apologize. It is not a question. But late on Saturday afternoon when we were talking about the Ambassador Bridge, I thought this audience might enjoy an interesting historical vignette.

The government of Canada was violently opposed to Matty Moroun buying the other side,<sup>95</sup> which was the Canadian side,<sup>96</sup> which happened to be owned by the American.<sup>97</sup> But they just did not want Matty to own the whole bridge.

That was in the days of the foreign investment review act, when that kind of thing could be fairly easily blocked.<sup>98</sup> Matty refused to pay any attention to the Foreign Investment Review Agency, which said no, you cannot do that, it is not good for Canada. So the government of Canada obtained an injunction in the Michigan court prohibiting him from closing the sale.<sup>99</sup> He closed the sale in Ohio by driving down the interstate.

Then the Ontario government -- the government of Canada did an amazing thing which you legal scholars will get a get big kick out of. They obtained in the Federal Court in Toronto a writ of sequestration,<sup>100</sup> which is

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<http://www.independent.co.uk/news/world/europe/death-toll-in-tunnel-fire-may-not-be-clear-for-weeks-632836.html> (discussing the difficulties of fighting a fire that engulfs a tunnel).

<sup>94</sup> See *id.* (stating it took several days to fight fire within Gotthard tunnel).

<sup>95</sup> See Stephanie Fitch & Joann Muller, *The Troll Under the Bridge*, FORBES, Nov. 15, 2004, available at <http://www.forbes.com/forbes/2004/1115/134.html> (stating that in the 1980's Canada sued Moroun seeking 50% interest in the Ambassador Bridge).

<sup>96</sup> See generally *id.*

<sup>97</sup> See generally *id.*

<sup>98</sup> CYNTHIA DAY WALLACE, *THE MULTINATIONAL ENTERPRISE AND LEGAL CONTROL: HOST STATE SOVEREIGNTY IN AN ERA OF ECONOMIC GLOBALIZATION* 235-239 (2002) (discussing the restrictions the Federal Investment Review Act put on foreign investments).

<sup>99</sup> See *Canada Eyes Tougher Standards*, *THE MULTINATIONAL MONITOR*, April 1980, available at <http://www.multinationalmonitor.com/hyper/issues/1980/04/canada.html> (stating that the FIRA succeeded in obtaining an injunction against the transfer of bridge assets from Detroit International to Central Cartage).

<sup>100</sup> See United States Marshalls Service, *Writ of Sequestration*, <http://www.usmarshals.gov/process/sequestration.htm> (last visited Oct. 15, 2008) ("A writ of sequestration is a prejudgment process which orders the seizure or attachment of property to be maintained in the custody of the U.S. Marshal or other designated official, under court

something we all learn about when we do insolvency law in law school, but we have never seen.

Well, a writ of sequestration is a writ to punish someone for disobeying the law.<sup>101</sup> It goes back to Edward III.<sup>102</sup> The court issued the writ, and the government of Canada said we are going to stand at the other end and collect the tolls, and we are going to keep them all to punish you. This is not a fine, we are sequestering the tolls. Does anybody know how Matty solved the problem? He moved his son to Ontario, and transferred all the shares to his son and then he became a Canadian resident, and he got around the Foreign Investment Review Act, and the government's been mad at him ever since. And it is all true, I worked on that.

MR. O'DELL: If I can add to that, it was resolved finally with an agreement in 1992.<sup>103</sup>

MR. ROBINSON: That was a long time after.

MR. O'DELL: It was a long time passing. And George Costaris will know this, but that agreement was signed by a person who is now the Canadian Ambassador to the United States in an earlier capacity as the minister for foreign trade.<sup>104</sup>

MR. CARMODY: Well, on that note, I wanted to thank all of our panelists for this fascinating, fascinating session.

(Session concluded)

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order and supervision, until the court determines otherwise.”).

<sup>101</sup> See *id.*

<sup>102</sup> See OLIVER JOSEPH BURKE, THE HISTORY OF THE LORD CHANCELLORS OF IRELAND 11 (1879) (stating that Edward III issued a writ of sequestration against the Lord Treasurer).

<sup>103</sup> See Fitch, *supra* note 95 (Canadian “government settled, getting no stake but exacting improvements to the bridge and the Canadian customs plaza.”).

<sup>104</sup> See *generally id.*