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DOING BUSINESS ACROSS THE CANADA-UNITED STATES BORDER: GATEWAY OR CHECKPOINT?

Session Chair – Ronald L. Rose
Canadian Speaker – David Bradley
United States Speaker – Jason Conley
Canadian Speaker – Thomas Garlock

INTRODUCTION

Ronald L. Rose

MR. ROSE: My name is Ron Rose, and I am acting as chairman of this session. Just a few remarks. I want to say how honored I am to be here. As the other speakers have said, this is a very timely meeting. It is an important and necessary dialogue in the time from my viewpoint as a corporate bankruptcy lawyer, probably the only one in the room. Our economy in the United States is as bad as I have seen it in my 40-year career. And for the community in which I live and work, and the automotive industry, which is Detroit, the economic union between the United States, Mexico, and Canada is of crucial importance to our economic future.¹

As we have already heard—and we will hear throughout the conference—there is bound to be tension between the need for security on the one hand, and open, free, efficient, and dependable border crossings on the other. And those of us from Detroit have always told our children instead of, “come home on time,” we say, “come home just-in-time.” There are a couple of articles in the front of the materials that talk about the thickening border. As the last speaker has talked about it, one trucker said that he could go through immediately or would end up waiting seven hours.

Drilling down a little bit further into the problems caused on a plant level, in Detroit today, the shutting down of a production line can cost a supplier between \$500,000 and \$1 million an hour as fines.² So that is just an

¹ See generally Isabel Studer, THE NORTH AMERICAN AUTO INDUSTRY 1 (Institute for Research on Public Policy, September 2004) (noting that “Canada and Mexico are largely dependent on their access to the US auto market”).

² See generally Katy Wight, *Driving Innovation*,

indication of the absolute necessity of being able to get product across the border on a timely basis because whether it is paid or not paid, those are the damages that our OEM suffer because of the failure to get products across the border.

CANADIAN SPEAKER

*David Bradley**

MR. BRADLEY: I will say a little about who we are. CTA is a federation of the provincial trucking associations in Canada.³ We represent over 4,000 trucking companies across the country,⁴ and most of those would be involved as part of their day-to-day business in cross-border trucking.⁵

I expect that virtually all the sessions at this conference will either end or begin by saying that we understand the validity and the concern around security. And then there is the big "but" that will follow. I want to say that as well. Truckers are patriots, and certainly the patience and calmness that they demonstrated, particularly in those days and weeks immediately following 9/11 was quite exemplary. Animals should not be put through what they were put through, having to sit forever in lines, not in the best of conditions.⁶ So the trucking industry understands the security imperative, but we also believe that accords need to mean something. The Smart Border Accord of December 2001 enunciated what we thought was a clear policy, that yes, we need to have improved security and we need to have improved trade facilitation that is based on risk management.⁷ That is something that we subscribe to, we bought into, and the "buts" will now follow.

<http://www.polyonics.com/DocsCenter/AutomotiveIndustry.pdf> (last visited January 25, 2009) (discussing the costs to suppliers during automotive shutdowns).

* David Bradley joined OTA in 1985 and became its president in 1991. In 1997, he was given the added responsibility of Chief Executive Officer of the Canadian Trucking Alliance. Before entering the trucking industry, David was a management consultant with one of the large global consulting firms based in Toronto and a financial markets analyst at a Canadian chartered bank. David completed his undergraduate work in economics at the University of Toronto and earned a master's degree in economics from Queen's University.

³ See Canadian Trucking Alliance, <http://www.cantruck.com/> (last visited January 25, 2009).

⁴ *Id.*

⁵ *Id.*

⁶ See generally Barrie McKenna, *Dead End for Free Trade*, THE GLOBE AND MAIL, May 17, 2008 (generally discussing the wait times truckers experience at the border).

⁷ See generally Edward Alden, *Thickening Border: Fading Smartness*, THE GLOBE AND MAIL, October 4, 2008, at A25 (noting that the authors of the Smart Border Accord recognized that the way to reach the Accord's goals of improved security and trade was to "manage

But before we do that, I think it is worthy of saying and repeating, I do not care how many times, that Canada and the United States still are this world's largest bilateral trade relationship.⁸ How much longer that is going to continue with the rise of China remains to be seen. In fact, in the last couple of years, there has been the odd month where China's trade with the United States actually exceeded Canada-US trade for the first time.⁹ But, still, overall Canada is the number one trading partner.¹⁰ And we have seen a literal explosion of trade between the two countries since the first Canada-U.S. free trade agreement was signed back in 1989.¹¹ Even today with slower economic growth, we are still seeing about a \$1.5 billion in value of trade a day crossing the border.¹²

Something that Canadians believe in very much is we like following the rules. We sometimes are called the Boy Scouts of North America.¹³ That is the way we are as a people. We like rules, and we like following rules, and so the relationship between Canada and the United States in terms of trade has been one that is based on rules and rules-based trading. Instead of trade wars, our bilateral trading relationship is founded on dispute resolution mechanisms. From our perspective under NAFTA, maybe those mechanisms have really not worked the way we thought in all cases, but that is the way that we like to approach things.

Our economic relationship is one based on integrated production, and you have heard the speaker from Ford previously talking about that. And you know, a piston will cross the border between Ontario and Michigan up to six times before you have a finished vehicle, so it is very much based on integrated production.

U.S.-Mexico trade is based on something different, -- low wages.¹⁴ Canada is not a low-wage country, we are a high-wage country.¹⁵ We need to

risk").

⁸ See Karen Blotnick, *Consumer Optimism: Can It Ward Off Lengthy Recession?*, THE CHRONICLE HERALD, January 4, 2008 (discussing the large trading relationship between Canada and the United States).

⁹ See generally James Morrison, *Embassy Row*, THE WASHINGTON TIMES, January 5, 2009 (discussing the growing trade relationship between the United States and China).

¹⁰ See Karen Blotnick, *Consumer Optimism: Can It Ward Off Lengthy Recession?*, THE CHRONICLE HERALD, January 4, 2008 (discussing the large trading relationship between Canada and the United States).

¹¹ See *id.*

¹² See Roger F. Noriega, Assistant Secretary of State for Western Hemisphere Affairs, Remarks to the Economic Club of Toronto, Trade and the Canada-U.S. Border (March 29, 2004) <http://www.state.gov/p/wha/rls/rm/31949.htm> (noting that approximately \$1.1 billion in goods crosses the Canadian-U.S. border each day).

¹³ See generally MARKETA GEILSEROVA, CANADIAN CENTRE FOR FOREIGN POLICY DEVELOPMENT, DEVELOPING CULTURE POLICY: CANADA IN THE WORLD ROUNDTABLE REPORT 3 (May 12, 2000) (discussing how Canada can live up to their "boy scout" role).

¹⁴ See Isabel Studer, THE NORTH AMERICAN AUTO INDUSTRY 1 (Institute for Research on

pay for our medical system, and that is paid for through the individual taxpayer. Canada is a very high tax and relatively high wage country.¹⁶ So we are not a threat in terms of siphoning off of jobs the way that some of these other countries are. Where things are produced in North America between Canada and U.S. depends on capacity utilization, productivity, those factors, those sorts of things. Forty percent of Canada-US trade is intra-firm, whether it is the Big Three or other manufacturing operations.¹⁷ So we are very, very highly integrated and operate on quite a different basis than say trade with Mexico; however, in recent years there has been so much fixation on the southern border that Canada has been sometimes caught in the whirlpool.

For Canada, trade is not only something that is important to us, our economic survival depends upon it. 25 percent of our GDP is dependent upon trade with the United States,¹⁸ so when the elephant sneezes, we get a cold. And so it is extremely important to us, we are very vulnerable in that regard.

However, trade is a two-way street, and this is something that I wish some of the more protectionist politicians in your country were more aware of. Canada is the top export market for the United States and has been for decades, certainly since the end of World War II.¹⁹ A quarter of all U.S. exports go to Canada.²⁰ For 39 of the U.S. states, Canada is their number one export market, and it is in the top three for eight of the others.²¹ And this is

Public Policy, September 2004) (stating that "lower labor costs for a qualified work force continue to be a Mexican comparative advantage").

¹⁵ See generally BUREAU OF ECONOMIC ANALYSIS INT'L ECONOMIC ACCOUNTS, TABLE 4: EMPLOYMENT AND WAGE RATES FOR MANUFACTURING MOFA'S IN HIGH-WAGE AND LOW-WAGE HOST COUNTRIES (1992) <http://www.bea.gov/international/datatables/0395iid/table4.htm> (listing Canada as a high wage country).

¹⁶ See LAWRENCE F. WOLPER, HEALTH CARE ADMINISTRATION: PLANNING, IMPLEMENTING, AND MANAGING ORGANIZED DELIVERY SYSTEMS 22 (Jones & Bartlett Publishers 2004) (stating that "Canada indirectly provides health services through a tax-funded public system").

¹⁷ See generally Isabel Studer, THE NORTH AMERICAN AUTO INDUSTRY 1 (Institute for Research on Public Policy, September 2004) (noting that "trade linkages show that Canada and Mexico are largely dependent on their access to the US auto market").

¹⁸ See generally BLAYNE HAGGART, GOV'T OF CANADA: ECONOMICS DIVISION, CANADA AND THE UNITED STATES: TRADE, INVESTMENT, INTEGRATION AND THE FUTURE 2 (April 2001) <http://dsp-psd.tpsgc.gc.ca/Collection-R/LoPBdP/BP/prb013-e.htm> (noting that Canadian trade with the US accounts for approximately 33% of Canada's GDP).

¹⁹ See generally ROGER F. NORIEGA, ASSISTANT SECRETARY OF STATE FOR WESTERN HEMISPHERE AFFAIRS, REMARKS TO THE ECONOMIC CLUB OF TORONTO, TRADE AND THE CANADA-U.S. BORDER (March 29, 2004) <http://www.state.gov/p/wha/rls/rm/31949.htm> (noting that Canada is the largest export market for 39 U.S. states).

²⁰ See Jack Jedwab, Canada and the United States: More Trade, More Economic Optimism Despite 'Mad' Month of June Analysis (2004) <http://www.acs-aec.ca/oldsite/Polls/Poll55.pdf>.

²¹ See ROGER F. NORIEGA, ASSISTANT SECRETARY OF STATE FOR WESTERN HEMISPHERE AFFAIRS, REMARKS TO THE ECONOMIC CLUB OF TORONTO, TRADE AND THE CANADA-U.S.

something that is interesting, and I am not sure if anybody in the room knew this or not, maybe you did, but Canada is the number one supplier of energy to the United States, including oil.²² And when you look at all of the conflicts in the world that may or may not have something to do with oil, it has been a pretty good relationship I think between Canada and the U.S., and there is more crude to come out of the oil sands than out of Saudi Arabia.²³ It is just a little more expensive, but we are pretty free and open about sharing it with the United States.²⁴

The U.S. sells more to Canada than it does to all 25 countries in the EU even though the population of the EU is 15 times that of Canada, five times more than they sell to Japan, half of all U.S. auto exports come to Canada, and the U.S. sells more agricultural exports to Canada than anywhere else in the world, about \$400 per person per year.²⁵ So we are a good customer as well.

Just in the last few weeks, a new study has been released by Brookings Institution that I thought was sort of interesting for this particular conference because it looks at the Great Lakes states and provinces.²⁶ And this is a real, an economic powerhouse that A: I do not think we are tapping into our potential, and B: I think perhaps we are letting it slip away because if you took those jurisdictions and put them together as a country, they would be the second largest economic unit on Earth after the United States and bigger than Japan, Germany, U.K., China and all the other ones that seem to get the headlines.

One of the quotes that I like from the study is that it says the region occupies the front lines in global restructuring.²⁷ I think that is true. And how we restructure and how we approach that I think will depend on how wealthy and prosperous we will be in the future.

BORDER (March 29, 2004) <http://www.state.gov/p/wha/rls/rm/31949.htm> (noting that Canada is the largest export market for 39 U.S. states); *See generally*, Cletus C. Coughlin and Howard J. Wall, NAFTA and the Changing Pattern of State Exports (February 2002), <http://research.stlouisfed.org/wp/2000/2000-029.pdf> (discussing the increase in state exports to Canada after NAFTA).

²² NRC: CANADA REMAINS TOP OIL, NATURAL GAS SUPPLIER TO U.S., <http://petrochemical.ihs.com/news-07Q2/nrc-supplier-us.jsp> (last visited January 25, 2009).

²³ *Id.*

²⁴ *Id.*

²⁵ *See* UNITED STATES DEPARTMENT OF AGRICULTURE, U.S. AGRICULTURAL TRADE: EXPORTS, <http://www.ers.usda.gov/Briefing/AgTrade/exports.htm> (noting that Canada became the lead agricultural exporting country in 2002).

²⁶ John C. Austin, et al., *The Vital Connection: Reclaiming Great Lakes Economic Leadership in the Bi-National U.S.-Canadian Region*, BROOKINGS INSTITUTE, March 24, 2008, http://www.brookings.edu/reports/2008/0324_greatlakes_canada_austin.aspx.

²⁷ *Id.*

Trucking plays a key role in this integrated production process. In fact, we see ourselves as part of the manufacturing process. We are not a stand-alone industry out there carrying air, clogging the highways. .

Our vehicles haul 62 percent of Canada-U.S. trade by value, and 80 percent of U.S. exports to Canada are moved by truck.²⁸ A truck crosses the border about once every two-and-a-half seconds on average. That is 24 hours a day, 365 days a year. More than 20,000 a day enter the United States from Canada.²⁹ And the reason for that again is that we are a key component in the supply chain. The just-in-time inventory system which really has been a competitive advantage for North American manufacturing over the last 30 years developed around the trucking industry, so we have seen spectacular growth in our industry over that same period.³⁰

As part of the supply chain, the message that I would like to impart is that -- and we are starting to hear people talk about the supply chain a little more these days than they have recently. But anything that impacts upon the reliability and the predictability of the North America's supply chain or the regional supply chain that operates in this immediate area ultimately impacts upon direct investment in North America.

Certainly for Canada we have seen examples where because of concerns over the border, manufacturers have decided, "well, we will just avoid the whole thing, and we will set up shop in the U.S". And clearly, that is a challenge we face in Canada, and there are those in the United States, and I would be doing the same thing, that are trying to capitalize on that and bring more direct investment in at the expense of Canada. But ultimately because our manufacturing bases are integrated, it hurts all of us. And it is something that we need to be aware of.

Where we want to be and where the Smart Border Accord said we would be is that the border needs to be more efficient and more secure than it was on September 10th, 2001. Remember, there were problems at the border before 9/11. I guess the question that I want to ask is: Are we there?

The "thickening of the border" is another new expression that has started to be used in the last year or so. Our most productive time in trying to make the border more efficient was in the immediate period after 9/11 where for the first time Canadian-U.S. Customs officials actually got together and said we have got a problem here, how are we going to deal with it?³¹

²⁸ See RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION, BUREAU OF TRANSPORTATION STATISTICS, NORTH AMERICAN FREIGHT TRANSPORTATION: U.S. TRADE WITH CANADA AND MEXICO (June 2006), http://www.bts.gov/publications/north_american_freight_transportation/pdf/entire.pdf.

²⁹ *Id.*

³⁰ *Id.*

³¹ See Daniel Drache, *Canada-U.S. Relations and the Impermeable Border Post 9/11: The Co-Management of North America*, CONFINES, May 2008, at 70.

In Canada there were some risk-based solutions that were percolating on our side of the border, and in the days and weeks following 9/11, by changing the focus of those programs slightly, programs like FAST, the Fast, Free, and Secure Trade program, were born. FAST is supposed to be a risk management program where low-risk people and goods are supposed to be able to move more freely and quickly across the border.³² That was good thing. But we have seen that approach be replaced over time by a “check everything/everyone/all the time approach. This change in approach reflected the words of the former U.S. ambassador to Canada, Paul Cellucci, who was actually very good to deal with on some of these issues, who never missed the chance to say that security trumps trade. It became part of his mantra, and obviously the administration's mantra.³³ You cannot say that security trumps trade and then at the same time espouse the virtues of the Smart Border Report in my view.

So things like the FAST program and ACE, which you will hear about, the automation of the border, those are all good in principle, and in many senses they are still in their infancy. But they have been experiencing growing pains, and we really have not seen the benefits of those programs yet.

Also denigrating the benefits of those programs has been the layer upon layer of other measures that we have seen heaped upon the supply chain in the inter-meeting period, more inspections. Becoming a member of C-TPAT now does not necessarily mean that you are going to have fewer inspections. However, that has not necessarily turned out to be the case. There are a certain number of random inspections that must occur, even within the low risk population. In addition, I have heard that CBP has told trucking companies they (CBP) do not even want carriers to advertise they are FAST or C-TPAT certified anymore because that just makes them a target for the drug traffickers, so they have to be inspected that much more.” We really seem to have lost focus here, and we are told no longer to promote the fact that we are secure and that we have gone through the process.

We have seen technology glitches. The amount of programming the federal government has tried to introduce in a short period of time without properly testing, without the necessary resources is just bizarre. In fact this past weekend, the ACE system went down. It could not handle the number of transactions – even in a down economy, on a weekend.

³² See Press Release, Department of Homeland Security, Free and Secure Trade (FAST) Implementation on the US/Mexico Border (Dec. 4, 2003) http://www.dhs.gov/xnews/releases/press_release_0309.shtm (discussing FAST and what it's designed to do).

³³ See Gloria Galloway, *U.S. Rebukes Canada*, THE GLOBE AND MAIL, March 26, 2003.

Of course there is also a temptation by other departments to get involved now. If you can wrap yourself in the security flag, then perhaps you too can get access to the gravy train. We have seen the FDA and the APHIS program coming into effect, whereby every truck, whether it is hauling auto parts or foodstuffs, is now subject to FDA inspection.³⁴ In fact, I have heard it said that General Motors is probably now the single-largest hauler of fresh-cut flowers in the continent because every truck that hauls their goods is now subject to the APHIS fees.

At today's border, you are guilty until you are proven innocent. Every trucking company in North America is subject to the rogue employee who decides he is going to run some marijuana across the border. You can have all the fences and C-TPAT designations in the world, and you are not going to prevent that from happening. If it does happen to you as a carrier you immediately lose your FAST and C-TPAT designation.³⁵ Eventually somebody will come up to see if you are doing what you said you would do when you became C-TPAT certified. They will probably tell you that the solution is to introduce a snitch line in your operation, and they will give you back your FAST designation. In the meantime, your customer has gone somewhere else, and you are not going to get that business back. You are all lawyers, I do not know if that is natural justice or not, but that is the way we deal with things in this day in age.

We have seen capacity leaving the transborder market. You just have to flip through the U.S. trade magazines, and you will see advertisements for drivers with the captions "No Canada," or "No border." The drivers do not want the hassle. Drivers do not get paid for sitting in line-ups – most are paid by the mile – so when they see the same guy every day when they are crossing the border checking to make sure he is not a terrorist, it gets a bit hard on them. So yes, we have seen capacity leave the market. Now, for some trucking companies, that is good. Those that make the investment in these new so-called security programs will stay in that market; those that will not or cannot will be forced out. However, if the goal is an efficient and productive supply chain, the less capacity, the higher the cost and the less the choice of service providers.

This past summer -- despite the fact that truck traffic across the Canada-U.S. border being down about 10 percent at the busiest border crossings, --

³⁴ See generally *Northern Border Security*: Joint Statement of Brenna Neinast and Michele James Before the Senate Homeland Security and Governmental Affairs Committee, 110th Cong. (July 2, 2008), available at http://hsgac.senate.gov/public/_files/070208NeinastJames.pdf (discussing inspection statistics for the Canada U.S. Border).

³⁵ See generally *In Transit Newsletter*, <http://www.dflaw.com/intransitNov2005.pdf> (last visited January 25, 2009) (noting that companies that have drivers apprehended for drug offenses at the border may trigger a suspension of FAST privileges).

the, lineups into the US, particularly at Port Huron but also at Detroit and the Niagara frontier, were as long as they were back in the days following 9/11.³⁶ The Ontario Ministry of Transportation had to put port-a-potties up on Highway 402 in Sarnia approaching Port Huron.³⁷ The Blue Water Bridge is the third busiest border crossing in North America.³⁸

So we begin to wonder, where are we going? There is an alphabet soup of US security measures that we now must comply with. And, Canada is not blameless in all of this. We are watching very closely to see how the remodeled Canadian version of C-TPAT and ACE are going to work.

There are various cost estimates out there that the chambers of commerce and different people have looked at. I provide the results for one, single trucking company. This is actually a trucking company based in Western Canada with a fleet of about 400 trucks, so he is probably in that \$60 to \$70 million a year operation. His increased annual costs are about \$2.4 million from complying with all of the US programs. In a low-margin business, that is pretty tough, and that equates for this one company -- even if you include all his trucks, and let us say they are all crossing the border -- to about \$500 per truck per year.

Interestingly the Brookings Institute paper of March 2008 paper, suggests the largest challenge to further economic integration in the Great Lakes region is posed by Homeland Security concerns and measures that have slowed border and binational economic exchange.³⁹ And this threatens to crimp trade and commerce at a time when the region in both nations have tremendous shared stake in enhanced economic integration.⁴⁰ How can our political leaders talk about competing with China, when our governments continue to heap these sorts of costs on the supply chain?

I will end with what needs to be done. Complacency within the business community and at the most senior levels of government, both in the US and in Canada has in part allowed for the layering of programs we have seen.⁴¹ DHS was created to bring several disparate agencies of government together, but there is still a silo effect, and some of this layering is a reflection of that.

³⁶ See Press Release, Ontario Trucking Association, Cross-Border Truck Trips Down in 2007: Further Proof of Troubled Ontario Economy (January 14, 2008) <http://www.saskstrucking.com/forms/crossborder.pdf>.

³⁷ See John Manley, *Does the U.S. Really Want to Renegotiate NAFTA?*, THE GLOBE AND MAIL, April 4, 2008.

³⁸ See Marsha Stopa, *New Blue Water Span Not Expected to Bring Trade Shift*, CRAIN'S DETROIT BUSINESS, July 14, 1997.

³⁹ See John C. Austin, et al., *The Vital Connection: Reclaiming Great Lakes Economic Leadership in the Bi-National U.S.-Canadian Region*, BROOKINGS INSTITUTE, March 24, 2008, http://www.brookings.edu/reports/2008/0324_greatlakes_canada_austin.aspx.

⁴⁰ *Id.*

⁴¹ See U.S. GOV'T. ACCOUNTABILITY OFFICE, REPORT TO THE CONGRESS: HIGH RISK SERIES: AN UPDATE 47 (January 2009) (discussing DHS's numerous programs and its inefficiencies).

We need to get more of our customers beyond the Big Three involved in some of the preferred shipper programs like FAST. Nothing worse for a trucking company than to make the investment, get your driver into the program, and then find that the freight you are hauling is not FAST, and you sit with everybody else anyway. We need to get the business community more involved. We need to ensure that our programs are as best as possible, bilateral and harmonized, and that they provide mutual recognition. We do not have that at the present time. Someone I hope at some point will do a cost-benefit analysis to see if any of this is actually having an impact in terms of improving safety. We certainly hope it is.

We would like to see the NAFTA partners, the signatories to the Smart Border Accord, i.e., the U.S. and Canadian governments, keep their promises. The Smart Border Accord and subsequent follow-up agreements called for a pilot of land preclearance at Fort Erie for freight destined to the US. But then the CBP unilaterally changed its mind. When is a deal a deal?

We need to make sure we have the infrastructure to support the level of trade of today and of tomorrow. You can still take a truck from Toronto to Miami, you will go through 17 stop lights, 16 of them are in Windsor, gateway to the Detroit and the single largest (by volume) land crossing in North America. You can have the bridges, all new booths at the bridges, but if the government agencies do not put enough people there to man the booths, it does not do much good.

The Security and Prosperity Partnership that the three NAFTA leaders like to talk about, to me, has been an entirely underwhelming process in terms of advancing the cause of a more efficient and more secure border.

The threat of increasing protectionist sentiment is raising its head in the US, at least in some of the rhetoric accompanying the presidential nominations process and must be checked.

Again, to accomplish any of this, we need to have all of the trade community, all of the business community involved because these are no longer just the truckers' problems.

Thanks very much.

MR. ROSE: Next on the agenda is Jason Conley, who is the Senior Manager for Homeland Security Policy for the United States Chamber of Commerce.

UNITED STATES SPEAKER

Jason Conley[†]

MR. CONLEY: Thank you so much. I would like to just first thank the Canada-U.S. Law Institute for allowing me to come and share a few thoughts with you. This is an excellent event.

These are issues that we are dealing with from a policy perspective in Washington on a daily basis. It is something that is quite important to the U.S. Chamber, and we are just glad that there is an event of this quality that is bringing these issues to light.

As I mentioned, I do represent the United States Chamber of Commerce. We are the world's largest business federation.⁴² We represent approximately 3 million businesses around the world. We have 106 AmChams around the world, and 95 percent of our members are small businesses, so we are very, very keen on the impact that security is having on the ability of these small businesses to compete because those regulatory burdens quite often mean the difference between property and bankruptcy for a small firm operating on thin margins.⁴³

The Chamber also has a Homeland Security Task Force that has been in existence for about five years.⁴⁴ We have 140 companies and trade associations.⁴⁵ We also have associations representing most major modal

[†] Jason Conley is the Senior Manager for Homeland Security policy for the U.S. Chamber of Commerce, the world's largest business federation. As such, he is responsible for the organization's advocacy, policy, and outreach on issues including transportation security for all modes, supply chain management, and customs policy. Notably, Mr. Conley led the Chamber's successful lobbying campaign on recently-enacted SAFE Port Act of 2006, and Implementing Recommendations of the 9/11 Commission Act. Prior to joining the Chamber of Commerce, Mr. Conley served as Vice President of National Strategies, a boutique public policy firm in Washington, DC. While with National Strategies, he provided Fortune 500 clients with strategic counsel and coalition management services on policy issues related to transportation, telecommunications, and public safety.

⁴² See U.S. Chamber of Commerce: About Us, <http://www.uschamber.com/about/default.htm> (last visited January 25, 2009) (stating that the Chamber is the largest business federation).

⁴³ See Stephen Brugger, *The AmCham Network*, EUROPEAN AMERICAN BUSINESS 2008, http://www.european-american-business.com/2008/p_009.php.

⁴⁴ See U.S. Chamber of Commerce: National Security & Emergency Preparedness Issues, <http://www.uschamber.com/issues/index/defense/default> (last visited January 25, 2009) (discussing the Chamber's Homeland Security Task Force and its focus "on providing policy guidance and recommendations on critical homeland security issues affecting our economy").

⁴⁵ See generally U.S. Chamber of Commerce: National Security Task Force, <http://www.uschamber.com/about/committees/natlsecurity.htm> (last visited January 25, 2009) (discussing how the Task Force represents more than 100 companies, associations, and state

stakeholder groups in the United States that participate in that task force.⁴⁶ The Chamber works very closely with Department of Homeland Security,⁴⁷ and the business community in the United States sees Homeland Security as a shared responsibility.

The private sector owns and operates 85 percent of critical infrastructure, and DHS has correctly recognized this fact. They have worked with the Chamber on issues such as a national infrastructure protection plan, the national response framework, and on various projects related to information sharing.⁴⁸

What is often overlooked in this entire debate about Homeland Security often comes to the question of, what other layers of security can we add? What government regulations can we add? What is often overlooked are the measures that the business community has undertaken since 9/11 to enhance their security without the benefits of participating in C-TPAT, FAST or other programs, or without the benefit of regulations.

But U.S. and Canadian firms have improved security at physical facilities that employs security training, contingency planning, and have voluntarily cooperated with law enforcement on both sides of the border to share information about suspicious activities.⁴⁹ So I think that is something to keep in mind as we start thinking about how secure are we, and what layers of regulation do we need?

I would first like to just start with a couple of thoughts on the U.S.-Canada trade relationship without going into any statistics or details because I think those have been very well-covered. I will talk about a couple of key topics in supply chain security. A couple things you will not hear me say that are extraordinarily important. The Western Hemisphere Travel Initiative is something that we are very, very concerned about. I do not have time to remark on that today, but it is something that the U.S. Chamber and our local chambers of commerce around the country are vigorously following and working with the Department of Homeland Security to ensure that as that

and local chambers).

⁴⁶ See generally Press Release, IPA, IPA President Invited to Continue Serving as Member of Various U.S. Chamber of Commerce Committees (October 31, 2007) <http://www.ipanews.net/Steinberg.asp> (discussing how the company's President will continue his role on the Chamber's Homeland Security Task Force).

⁴⁷ See U.S. Chamber of Commerce: National Security & Emergency Preparedness Issues, <http://www.uschamber.com/issues/index/defense/default> (last visited January 25, 2009) (discussing the Chamber's Homeland Security Task Force and its focus "on providing policy guidance and recommendations on critical homeland security issues affecting our economy").

⁴⁸ *Id.*

⁴⁹ See generally Office of the Privacy Commissioner of Canada, Annual Report to Parliament 2003-2004, http://www.privcom.gc.ca/information/ar/200304/200304_e.asp (last visited January 25, 2009) (noting how the U.S. and Canada share watch lists and other information with each other).

deadline approaches, that the word gets out to provide the requisite documentations so that we actually do not see an impact on those local economies. And then I will talk briefly about what the business community is doing, and then maybe just a look ahead as what we see in the election year.

Underlying all the statistics you have heard today about the importance of the U.S.-Canada trade relationship is the fact that we, as Garland pointed out a little bit earlier, do not simply trade goods, we manufacture them, and we make things together. And this integrated manufacturing process has been an important part of the NAFTA story. And why that is important for Homeland Security is because firms with integrated North American supply chains, their goods clear Customs multiple times during that manufacturing process, whereas a company that simply imports a television from Korea or from China may clear Customs once.⁵⁰ So when you talk about the thickening of the border and the layers of security, that goes to the heart of North American competitiveness, and that is why the Chamber takes these issues very seriously.

I know the speaker earlier referenced Ten-Plus-Two in importer security filings. While that is only required now for the Maritime sector, it is something that will certainly be coming down the road for other sectors. The U.S. Chamber is very concerned about the application of Ten-Plus-Two across the board. We do believe that these non-discriminatory approaches can provide challenges that really are not risk-based, and we prefer to see proposals that are risk-based. One area that is also non-discriminatory that the Chamber's been working on very much lately is APHIS fees.⁵¹ The U.S. Department of Agriculture published an interim rule in November 2006 that requires APHIS fees for all conveyances originating in Canada irrespective of risk.⁵² That means the shipment of auto parts from General Motors or Ford

⁵⁰ See generally Sheldon Alberts, *Prentice Sounds Alarm Over 'Thickening' Border*, Canada.com, May 07, 2008, <http://www.canada.com/topics/news/politics/story.html?id=3dac511d-c111-4b4c-af25-3fbf142f8524> (stating that "Not long from now, we will see the first Chinese- or Indian-manufactured vehicles arrive on North American shores, ready to be sold to eager consumers. These vehicles will have encountered a border delay only once").

⁵¹ See Press Release, U.S. Department of Agriculture, USDA Amends User Fee Regulations for Agricultural Services (Dec. 10, 2004) <http://www.aphis.usda.gov/lpa/news/2004/12/aqiusers.html> (discussing how the USDA is amending its user fee regulations by adjusting fees charged for certain agricultural quarantine and inspection services to reflect the anticipated costs of providing these activities through fiscal year 2010).

⁵² See generally The U.S Chamber of Commerce and The Canadian Chamber of Commerce, *Finding the Balance: Reducing Border Costs While Strengthening Security*, February 2008, <http://www.chamber.ca/cmslib/general/0802FindingTheBalance20083393251.pdf> (last visited January 25, 2009) (discussing how all commercial conveyances and airline passengers must pay the APHIS fee, irrespective of the cargo being carried).

is treated the same way as a shipment of seafood or fresh fruits. This is something that unfortunately we do not believe will be rolled back. There has been a lot of discussion. The industry has been working very vigorously with the Department of Agriculture and Customs and Border Protection on this. But unfortunately, it looks like that there will only be limited exemptions when the final rule is published later this year.

Now, about C-TPAT, it has grown from the seven companies in early 2002 to over 8,000 companies.⁵³ It has been a success story. And while the program is voluntary, it has become somewhat obligatory because so many of the major importers require their supplies to be C-TPAT members and to be validated. And so there are costs that are associated with that. The real challenge is that there are not really robust benefits. So the automated targeting systems score is going to be less, and therefore there will be a reduction in inspections, but I think that it is incumbent upon CBP to develop even more robust benefits for C-TPAT because some companies, especially in our membership, are talking about whether it makes sense to continue in C-TPAT; whether they are really seeing the benefits for all of the expenditures that they are making. And I would like to say that this ties back into the infrastructure issue. Infrastructure is extraordinarily important. Expanding those lanes at the border crossings at the approaches is very important. A FAST lane is only fast to the extent that you can actually make it to that lane. So to the extent that security is an issue, it has to be seen in conjunction with some of the infrastructure issues.

And then something that the Chamber has been very actively working on with respect to United States and Europe is developing a mutual recognition agreement between the U.S.'s C-TPAT program and Europe AEO program.⁵⁴ We would like to see something very similar between the United States and Canada. Mutual recognition is we think a key to reducing some of the costs for companies that have to have global footprints that have to comply with AEO programs around the world. And one area where CBP and CBSA are making some progress is post-incident resumption of trade.⁵⁵ It was remarked earlier that the major benefit of C-TPAT is providing some priority if you

⁵³ See Message from the Commissioner Announcing C-TPAT Importer Security Criteria, http://cbp.gov/xp/cgov/trade/cargo_security/ctpat/security_criteria/criteria_importers/commi_i_mporter_criteria.xml (last visited January 25, 2009) (noting how C-TPAT "has grown to more than 8,800 enrolled companies").

⁵⁴ Cf. Susan Kohn Ross, Mutual Recognition - C-TPAT and AEO Meet, July 12, 2008, http://tradelawyersblog.com/blog/archive/2008/july/article/mutual-recognition-c-tpat-and-aeo-meet/?tx_ttnews%5Bday%5D=12&cHash=90182162c4 (discussing the efforts to find a way to bring AEO and C-TPAT programs together).

⁵⁵ See Assessing the Resiliency of the Nation's Supply Chain, http://cbp.gov/xp/cgov/newsroom/congressional_test/supply_chain.xml (last visited January 25, 2009) (discussing CBP's efforts in post-event resumption of trade).

have an incident, a pandemic, or a terrorist incident or something that closes ports of entries. When you actually go into the recovery period, who has priority? And so that is something that we would like to see more developed. And there is also communicating with the trade community. I think it was perfectly awful that many major importers and carriers did not have adequate information in the days following 9/11 about when borders were going to be reopened.⁵⁶ We cannot repeat that process. There needs to be a robust communication with the trade community.

And finally, one issue I would just like to touch on is the land border preclearance. There was a pilot program that was the subject of negotiation for several years for allowing Customs clearance to take place on the Canadian side of the border and for U.S. Customs officers to be stationed there.⁵⁷ Those negotiations broke down over a series of very thorny legal issues, but we think that preclearance is really the right strategy. We need to think of a way of pushing that security out away from the border deeper into the supply chain. One area is agriculture, food production, where you actually have inspectors in some of the manufacturing facilities.⁵⁸ Something like that is essential; that cooperation and integration are essential. Pushing that security away from the border is essential to alleviating some of these congestion issues.

And I think it is an approach you will see the Department of Homeland Security taking on in other areas. For example, with respect to domestic air cargo, TSA is required to screen 100 percent of all air cargo carried on passenger planes by 2010.⁵⁹ Now how do they intend to do that? One way is to have a certified cargo screener program where they actually do the screening at the cargo facilities, in secure cargo facilities well in advance of where that cargo is transported with the plane. That requires a secure chain of custody and a few other hurdles, but really we think that is really the right approach.

And just as the Customs and border protection over the past five years have pushed the borders out, we think that it is important to push some of the security measures away from the border. And very briefly, I will mention what the business community is doing on this. The security prosperity partnership is something that we are very strongly supporting. The Chamber is the co-secretariat in the United States for the North America Competitiveness Council, and this is 14 businesses in the United States, 10 or

⁵⁶ *Id.*

⁵⁷ Press Release, Department of Homeland Security, Joint U.S.-Canada Agreement for Land Pre-Clearance Pilots (Dec. 17, 2004) http://www.dhs.gov/xnews/releases/press_release_0571.shtm (discussing the pilot program).

⁵⁸ *Id.*

⁵⁹ See generally, Editorial, *New System for Screening Bags Falls Short Of Promises*, USA TODAY, Dec. 30, 2002 (discussing new baggage screening procedures).

11 in Canada, and 10 in Mexico making recommendations to the three leaders about measures that they can take on regulatory cooperation on areas including supply chain security, that we think can enhance competitiveness.⁶⁰ And we issued our first report in September of 2007 to leaders that provided 51 specific recommendations on measures that can be taken to improve trade between the three NAFTA countries.⁶¹ There have been follow-up meetings in Montebello, and there will be a meeting next week in New Orleans where we will release another set of recommendations to leaders.⁶² That report will be posted on the Chamber website, www.uschamber.com on April 22nd.⁶³ I would encourage you to read that.

The U.S. Chamber is also working with the Canadian Chamber.⁶⁴ Someone mentioned our report a bit earlier, but in February we released a report finding balance; reducing border costs while strengthening security, and that is available on our website as well.⁶⁵ I would encourage you to read this. This makes a series of recommendations on specific measures that can be taken to reduce that congestion within the next 18 months.⁶⁶

The Chamber also will continue to work with Congress to message these issues. We are the largest lobbying organization in the United States according to our lobbyists' direct filings.⁶⁷ But this is something the Chamber

⁶⁰ See generally U.S. Chamber of Commerce, International Trade and investment: Policy Accomplishments for 2007, <http://www.uschamber.com/issues/accomplishments/international.htm> (last visited January 25, 2009) (listing recent Chamber activities by country).

⁶¹ See North American Competitiveness Council, *Building a Secure and Competitive North America: Private Sector Priorities for the Security and Prosperity Partnership of North America* (August, 2007), <http://www.uschamber.com/NR/rdonlyres/e2hlgdvndhghqunbdaz2nb2i67bfxh5ihc6zvuszkkwtwggtshf6pbrdeuvr5ththfda57hy56l7tpozazrctux5md/NACCRReporttoLeadersFINALAugust212007.pdf>.

⁶² See North American Competitiveness Council, *Meeting the Global Challenge: Private Sector Priorities for the Security and Prosperity Partnership of North America* (April, 2008), <http://www.aaccla.org/NR/rdonlyres/e6vkczq2emyrq6xekjdu5tbsnaaopifurhqwmescqtrmvh4sz5kw2en72ihtafoxpwnjjm6s2fyn3mlpal6i5e/NACCRReporttoLeadersApril172008FINAL.pdf>.

⁶³ *Id.*

⁶⁴ See The U.S. Chamber of Commerce and The Canadian Chamber of Commerce, *Finding the Balance: Reducing Border Costs While Strengthening Security*, February 2008, http://www.uschamber.com/NR/rdonlyres/ehbod3f5v2yynuq3kr2vrxtiwmnut6qteexitpyd7n4ef36usxji4v3uus47b4ekzba5of625r3js5vt66wggm2v6f/0802_finding_balance_report.pdf (last visited January 25, 2009) (a joint report from the U.S. and Canadian Commerce agencies).

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ See Dan Morain, *Tinseltown Filling Campaign Coffers. Democrats Are Reaping the Benefits of Wealthy and Glamorous Donors While Entertainment Executives Hope to Be Heard In Washington*, LOS ANGELES TIMES, October 18, 2007 (noting that the Chamber ranks first in lobby spending).

takes very, very seriously. We will hold members of Congress accountable on how they vote on border security issues.

And then just turning to politics for a brief second. I think that since this is an election year, you really will not see that many opportunities for new legislation. Last year was a very busy year with the 9/11 Commission legislation. That was a mammoth piece of legislation that the Department is still, and will for several years be, spending time implementing.⁶⁸

However, the Senate Finance Committee is preparing a Customs and Trade Authorization bill. The Ways & Means Committee in the House will hold their hearings this summer. We expect a vehicle to start moving in the fall, but probably not until the following year will you actually see a bill come to the floor. But that could be a vehicle for addressing some of these issues.

We talked about thieves. I am firmly convinced that the APHIS issue is something that has to be addressed from a legislative perspective. The other thing in this election year that it is really important for the business community to get out there and talk about is the importance of NAFTA and why NAFTA needs to be continued. This political rhetoric that we are hearing from various campaigns and certain corridors needs to have a counter-punch. The U.S. Chamber is at the forefront of getting out there and saying that NAFTA is important to the United States economy, it is important to American businesses. It means jobs, and this also means jobs in Canada.

And so I think it is incumbent that the business community get out there and make this case, and that we work cooperatively with Department of Homeland Security on finding security measures that really do not impact trade; that we work together with them to find innovative approaches because I do not think security is going away. I do not think, from my interaction with Congress, that seven years out from 9/11 that Congress has forgotten about this. This is very much on their agenda. When you walk into the Committee on Homeland Security's offices, the first thing that you are confronted with are four-foot posters of the towers, the twin towers being attacked, and posters of the Pentagon being attacked. This is something that members of Congress think about on a daily basis. They hear about it from their constituents. They are very concerned. And so I do not think that there is really a political will to roll back a lot of security measures altogether, but

⁶⁸ See generally Open Letter to the Members of The United States House of Representatives Re: 9/11 Commission Recommendations Act of 2007, http://www.uschamber.com/issues/letters/2007/070109_911_recommendations.htm (last visited January 25, 2009) (letter from the executive vice president for Government Affairs expressing the Chambers commitment to fighting the 9/11 Commission legislation).

there can be a way to think about how we can do this in a smarter and more efficient way and a way that does not inhibit trade.

Thank you very much.

MR. ROSE: Next is Tom Garlock, who is the general manager of the Niagara Falls Bridge Commission which is responsible for the Rainbow Bridge, the Whirlpool Rapids Bridge, and the Livingston Queens Bridge going across the Niagara River.

CANADIAN SPEAKER

Thomas Garlock[†]

MR. GARLOCK: Thank you, Ron. Just a little further explanation of what we are. We are a binational compact entity.⁶⁹ We work equally in the interests of Canada and the United States. We are a public benefit corporation and a member of the Public Border Operators Association, and that is the 11 organizations operating 10 of the major crossings, primarily between Ontario and Michigan, and Ontario and New York.⁷⁰

I have been the general manager at the Niagara Falls Bridge Commission since November of 2000, and I will share with you that the only trepidation that I experienced when I was considering taking the position was, 'gee, am I going to be bored?' Needless to say, that has not been the case.

[†] Thomas E. Garlock is the General Manager of the Niagara Falls Bridge Commission, the bi-national entity that owns, operates and maintains the Rainbow, Whirlpool Rapids and Lewiston-Queenston Bridges spanning the Niagara River between Canada and the United States. The Commission's crossings carry the second highest volume of traffic on the Canada-United States Border. Appointed as the fifth General Manager by the Commission in November of 2000, Mr. Garlock previously held positions in New York State Government and business. Mr. Garlock is a director and past president of the Public Border Operators Association (PBOA), a member of the Board, treasurer and past chairman of the Niagara Falls, Canada, Chamber of Commerce, a member of the Board of the Niagara Tourism & Convention Corporation and a member of the Board of WNED, Public Television, Buffalo-Toronto.

⁶⁹ See Niagara Falls Bridge Commission, *What is the NFBC?*, http://niagarafallsbridges.com/what_is_nfbc.php3 (stating "the 1938 U.S. Congressional Third Session created the Niagara Bridge Falls Commission as it currently is constituted" and "the Extra Provincial Corporations Act of the Province of Ontario, Canada licenses the NFBC").

⁷⁰ See Paul J. Koessler, *The Western Hemisphere Travel Initiative: Perspectives of a Community on the U.S.-Canada Border*, (Jul. 2007) available at <http://homeland.house.gov/SiteDocuments/20070720115534-77386.pdf>, (oral testimony to The House Committee on Homeland Security, stating "[T]he Peace Bridge is a member of the Public Border Operator Association (PBOA) which represents nine publicly owed border crossings between the Province of Ontario and the States of Michigan and New York.").

The situation that I found at the border in the months prior to September of 2001 was very, very different. The U.S.-Canada border had been historically understaffed by the United States.⁷¹ All of the border operators were constantly talking to Washington about additional staffing. All of the emphasis was on the border of Mexico.⁷² But I remember almost every day the very prophetic words of Mark Romoff, one of Steve Brereton's predecessors, a consul general in Buffalo,⁷³ when he told me, 'be careful, Tom, what you wish for. More inspectors may just bring more inspection.' And I think about that almost every day.

The growing NAFTA generated volume and regularly experienced delays at the borders, as did our tourism and casual travelers. In Niagara, of course, tourism is very, very important to communities on both sides of the river,⁷⁴ and so we would be very concerned at the height of the summer when people were sitting in their automobiles for an extended period of time trying to cross.

Then came the tragic events of that September 11, and things did start to change.⁷⁵ We have seen a significant increase in U.S. personnel at the border.⁷⁶ There is no question that there are thousands more being deployed by CBP and Border Patrol and other agencies to address the issues of the Canada-U.S. border.⁷⁷ But again, thinking back to Mark's words, the intensity and length of inspection has grown dramatically, as well over those last number of years.⁷⁸ And so even though there may be more capacity to handle more volume, it still leads to significant queues. And as David pointed out,

⁷¹ See Lisa M. Seghetti, *Border Security: U.S.-Canada Immigration Border Issues*, CRS Report for Congress, Order Code RS21258 at 2, (Dec. 2004) available at http://www.ndu.edu/library/docs/crs/crs_rs21258_28dec04.pdf ("[C]ompared to its southern counterpart, the northern border historically has been understaffed and lacked the necessary infrastructure to adequately screen individuals seeking entry into the United States").

⁷² *Id.*

⁷³ See Government of Canada: Stephen Brereton Biography, http://www.canadainternational.gc.ca/buffalo/offices-bureaux/con_gen_bio.aspx?lang=eng&menu_id=261&menu=L (last visited January 25, 2009).

⁷⁴ See Niagara Economic Development Corporation, Key Industries, <http://www.niagaracanada.com/content/?page=KeyIndustries> (last visited Oct. 13, 2008).

⁷⁵ Alan D. MacPherson & James E. McConnell, *A Survey of Cross-Border Trade at a Time of Heightened Security: The Case of the Niagara Bi-National Region*, 37 AM. REV. CAN. STUD. 301, 302-303 (2007).

⁷⁶ Press Release, Customs and Border Protection, CBP Border Patrol Agents Increase Northern Border Security (Dec. 30, 2003) available at http://www.cbp.gov/xp/cgov/newsroom/news_releases/archives/cbp_press_releases/122003/12302003.xml

⁷⁷ *Id.*

⁷⁸ See William B. Cassidy, *Bordering on Frustration*, Traffic World, Dec. 2007, at 16.

some of the wait times were just horrendous.⁷⁹ And we will tell you that in the months since then, we have worked closely with border operators with CBP to at least settle upon a very accurate measure of wait time.⁸⁰ And so we are hoping to avoid that situation that I think Paul mentioned in the earlier session. You look at the CBP website, and they cannot tell you how long the wait is going to be.⁸¹

At the very least, we need to make sure that users know what they are going to confront at the border. And the public border operators are committed to making sure that the public knows what the situation is so they can make some decisions. We work closely with the Peace Bridge Authority to make clear what the conditions are on all four bridges over the Niagara River, and so our customers can choose the one that best suits their needs given the day and the hour.⁸²

The infrastructure in September of 2000 was already very ageing.⁸³ My commercial bridge, the Lewiston-Queenston, opened to traffic in 1962⁸⁴ and there had been very, very little change to the crossing in the intervening 40 some years.⁸⁵ This was typical of what we saw all the way along the border.⁸⁶ Then finally, as has been said by other speakers, security was overriding facilitation very, very aggressively.⁸⁷ Well, what has happened in the intervening years? I can tell you that there has been more the \$350 million in investment, primarily in port structure, and in some cases, crossings among the PBOA members.⁸⁸ At our crossing we have redacted the Lewiston-Queenston. It is now five lanes that flex in either direction.⁸⁹ And in cooperation with the government of Canada, the province of Ontario, and the Commission, we have spent more than \$60 million to do exactly what was referenced earlier in making sure that FAST means something. And now if

⁷⁹ See Ontario Trucking Association Press Release *supra* note 36.

⁸⁰ See U.S. Customs and Border Protection, CBP Border Wait Times, <http://apps.cbp.gov/bwt/> (Providing a to-the-minute estimation of wait times).

⁸¹ *Id.*

⁸² See Niagara Falls Bridge Commission, Traffic Conditions, http://niagarafallsbridges.com/traffic_conditions.php3 (last visited Oct. 13, 2008).

⁸³ See Niagara Falls Bridge Commission, *supra* note 69.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ Dunniela Kaufman, *Does Security Trump Trade?*, 13 L. & BUS. REV. AM. 619, 625 (2007).

⁸⁸ See generally Kathlyn Horibe, *No Shortage of Challenges for Cross-Border Trade*, CANADIAN SAILINGS, Jun. 30, 2008, available at <http://www.canadiansailings.ca/Archive/tabid/120/selectedmoduleid/500/ArticleID/16120/Default.aspx> (Discussing how government entities have invested over US\$3 billion in infrastructure over the last several years, where cross-border programs have also benefited and shown positive return on investment).

⁸⁹ Niagara Falls Bridge Commission, *supra* note 69.

you are FAST load, you get into a dedicated lane about a kilometer-and-a-half back from inspection, and you can cross very, very efficiently.

As an aside for personal users, we have dedicated the Whirlpool Rapids Bridge to NEXUS users only.⁹⁰ The traffic jam on the Whirlpool is three cars, and it is as close as you will get to how the border with 50 years ago as you will find anywhere.

But going forward, not only are there dramatic improvements planned for the Peace Bridge, but at the Blue Water as well, we have \$45 million of construction underway at the Queenston Plaza with another \$70 million to follow shortly we hope.⁹¹ Over the next five to ten years, even absent a new Detroit River international crossing, there is about a billion dollars that is planned to be expended. Having said that though, infrastructure will not cure the facilitation problem in and of itself. It is a very important piece, but there has to be a will to manage the infrastructure in a very intelligent way.

I will give you one brief example. As we are rebuilding Queenston, Canada Food Inspection Agency has had a facility there since the mid 1980s.⁹² The best we can determine, they have had 11 offloads of animals into this facility since the year 2000. But on a very limited footprint they are insisting that we spend upwards of \$1.5 to \$2 million to build them a new facility.

They have acquiesced in moving it off the footprint if that is absolutely necessary, but they have rejected our recommendation that they do a joint agreement with USDA, who is just one mile from the bridge on the other side of the river.⁹³ And to have the Canadians that go to the USDA facility and do his or her inspection in a facility that is far superior to the one that they have in Queenston right now. The answer comes back no. We insist on doing it on Canadian soil. And this goes back to what Jason and David said about preclearance. It is a good idea. Obviously it has some challenges, but if people in both countries work creatively, I am confident that they can be overcome, and it would have made for a far more efficient crossing at the Peace Bridge, but also at the Thousand Islands Bridge where the plan was for

⁹⁰ See Niagara Falls Bridge Commission, NEXUS holders take Whirlpool Rapids, http://niagarafallsbridges.com/which_bridge.php3 (last visited Oct. 13, 2008).

⁹¹ 2007, Annual Report, Niagara Falls Bridge Commission, available at <http://niagarafallsbridges.com/NFBCAnnual.pdf>.

⁹² Canadian Food Inspection Agency, Organization Details, http://pub.directinfo.agr.gc.ca/cgi-bin/x500_OrgUnitDet?lang=0&DN=OU=AP-PA,OU=CA-SC,OU=OPOFO-BOPON,OU=OFVPO-BVPOP,OU=CFIA-ACIA,O=GC,C=CA (last visited Oct. 25, 2008).

⁹³ See United States Department of Agriculture, Animal and Plant Health Inspection Service, Port Veterinarian List, http://www.aphis.usda.gov/import_export/animals/animal_import/animal_imports_portvets.shtml#BN (last visited Oct. 13, 2008).

Canada Border Services Agency was to abandon their site at Lansdowne which is very, very limited, and move to the U.S. side in Alexandria Bay.⁹⁴

There has to be a will to thin the border, and we are not seeing that, particularly out of Washington at this point.⁹⁵ And certainly Ottawa is loathed to appear to be soft on security for very good reasons. The other issue with infrastructure, we have 15 lanes at Rainbow Canada, we have 18 lanes at Rainbow U.S.⁹⁶ As I say, there has been more personnel added to the border on the U.S. side, but in Canada, it is unusual to see more than seven or eight of those lanes staffed going into Canada. And so even though the infrastructure has been provided, it is not solving some of the problems.

Finally, I want to end on a little bit of a philosophical note here in a school devoted to the learning of law and the understanding of law. And I am very proud to say that my daughter is a graduate of this fine institution. There are many lawyers in the room, and there are many lawyers that will graduate from this institution who will find their way to government and will be counseling policymakers on how to make things work. It is very important to talk about how to make things work, not how to say no, where both nations are very concerned about their sovereignty. But we are two peoples with such a close culture and a closely-matched set of values⁹⁷ that I think that we can find a way to work more closely together in a way that protects our security while also facilitating trade, tourism, and the occasional visitor.

In a free society such as Canada or the United States, at some point we are going to have to come to grips with the simple fact that when we are free, we will experience risk.⁹⁸ And from time to time, bad things will happen. But how much of our freedom do we want to sacrifice to eliminate all that risk? It is a question for both societies. It is one we are going to have to grapple with over the next few years, and I hope everyone in the legal profession who is counseling policymakers in both Capitols will take that to heart.

Thank you very much.

⁹⁴ See Press Release, Sen. Charles Schumer, Thousand Island Bridge At Alexandria Bay Right Place For Innovative Border Crossing Plan That Keeps Traffic Moving While Maintaining Secure Border (May 6, 2006) available at <http://www.senate.gov/~schumer/Website/pressroom/record.cfm?id=260751>.

⁹⁵ See MacPherson, *supra* note 75.

⁹⁶ See Niagara Falls Bridge Commission, *supra* note 69.

⁹⁷ Colin Robertson, *Canada-United States Relationship: An Example Of And An Innovation For The World*, 32 Can.-U.S. L.J. 296 (2006).

⁹⁸ See Philip Shenon, *Threats And Responses: Warnings; Security Chief Says Nation Must Expect Suicide Attacks*, N.Y. Times, Mar. 13, 2003, at A13 (warning that inevitable suicide bombing attempts in the United States will be difficult to prevent).

DISCUSSION FOLLOWING THE REMARKS OF DAVID BRADLEY,
JUSTIN CONLEY AND THOMAS GARLOCK

DR. KING: Yeah. I was intrigued by the early clearance reference by Jason Conley. And I wonder to what extent that can be the solution to some of these difficulties. Do you have any forecast for the future of the early clearance problem approach?

MR. CONLEY: I can say this, that, you know, from our discussion with the Department of Homeland Security, they indicated that they had negotiated for approximately 18 months on this issue and coming back and forth over some. So it was a question of the privacy issues and Canadian charter versus some of the real law enforcement needs to have actual information about who was actually approaching and being able to vent that information, collect that, and save that information. So I think that that negotiation broke down, but that does not mean that you cannot have actual cooperation, additional cooperation, and pushing some of those inspection functions away from some of those ports of entry. And I think that you have seen it in other areas. You are seeing it in -- import safety was going to become a very important area just as border security has been important for the past several years. I think import safety will be driving a lot of the cross-border changes. You have seen it to some degree with the Container Security Initiative.⁹⁹ We actually have U.S. Customs officials stationed at 58 ports around the world where there is a lot of cooperation there obviating the need for additional inspections at the U.S. port.¹⁰⁰

So there are examples. Preclearance for airline passengers at airports has been standard at several airports in Canada for a long time.¹⁰¹ If you ask the Department why that is different, they say, 'well, the airport is a sterile environment, it is a protected environment, and somehow it is unique.' But if the principle works in some instances, I think we need to expand the envelope and say where it works in other instances. How do we actually have those inspections functions that are sufficient at the Canadian ports of entry so that you actually do not have to have some of that intermodal cargo scanned or inspected again when it comes into Prince Rupert, and then it crosses again into the United States and the Midwest? I think that if you can de-layer security in that way, it can go a long way to improve inefficiencies. It is incumbent on all of us to think about creative solutions like that rather

⁹⁹ See U.S. Customs and Border Protection, Container and Security Initiative, http://www.cbp.gov/xp/cgov/trade/cargo_security/csi/ (last visited Oct. 14, 2008).

¹⁰⁰ *Id.*

¹⁰¹ See Transport Canada, Preclearance Program, <http://www.tc.gc.ca/roadsafety/importation/pre/menu.htm> (last visited Oct. 14, 2008).

than just saying no, no, no. We can do that, we have done it, we will do it, but it is important to say what we will need to move forward.

DR. KING: Do we need legislation?

MR. CONLEY: I think -- Yeah. In some instances you need legislation, but there are certain things that the Department can do with an existing authority.

MR. BRADLEY: I would agree. I think it is not the entire solution. I am not sure how big a solution it is. In certain circumstances, certain geographic areas, it makes sense. It is not going to work at every border crossing. But, I think that if CBP were being completely honest, they just do not like the idea. They never have liked the idea. Former DHS secretary Tom Ridge supported the idea but the department seemed to have other ideas. Secretary Chertoff is clearly less interested in this measure.

So I think there is a cultural or a philosophical opposition. I am told CBP has concerns about the preclearance of air passengers heading to the US that has taken place for years at the international airports in Toronto, Montreal, or Vancouver, even though it seems to work quite well. So again, it comes back to, I think, the philosophy and the culture of security as opposed to trying to find solutions that may make sense. There are legal issues, too, obviously.

MR. LAWTON: All of the presentations were really good.

David, in particular, I was interested to know whether you have a handle or a feel for how much fuel is used up in the waiting process.

MR. BRADLEY: Yeah. Well, I cannot give you a number, but I can tell you it is substantial.¹⁰² It is a real issue in cities like Windsor where, there is a great concern over greenhouse gas emissions and pollutions from trucks having to sit in line waiting to cross.¹⁰³ The environmental argument seems to get lost in all of this.

MR. CONROY: Hugh Conroy from the Whatcom Council of Governments in Washington State. Maybe this is a question for both Jason and David.

There has been a lot of discussion in both panels about the pertinence of integrated manufacturing across the border and the ability in those cases for manufacturers to lean on their suppliers to also get involved in programs like C-TPAT. But you know, it is my sense that it is maybe not the case across

¹⁰² GERALD DIAMOND & MICHAEL PARKER, *PRELIMINARY AIR QUALITY ASSESSMENT RELATED TO TRAFFIC CONGESTION AT WINDSOR'S AMBASSADOR BRIDGE 6* (Government of Ontario, Ministry of the Environment 2004) (finding that when truck traffic [was idling], the increase in particulate matter was sufficient to increase the Air Quality Index by one complete level).

¹⁰³ See, *The Weather Network, Air Quality, A Provincial Perspective*, <http://www.theweathernetwork.com/index.php?product=airquality&airqualitycode=on&pagecontent=airsummary> (last visited Oct. 16, 2008) (designating Windsor as the "Smog Capital of Canada").

the border and maybe even at the border crossings that all suppliers or all shippers of goods have this incentive to get into a program like C-TPAT. For the rest of the freight movements, are there any examples you are aware of where either inspection agencies or carriers have managed to convince shippers that there are incentives or reasons for them to engage in these programs to the effect of greater enrollment and just getting more traffic into those programs?

MR. BRADLEY: From-time-to-time on a case-by-case basis, there has been examples of that. I would say that the most productive period for those sorts of discussions would have been about four or five years ago when the -- and I am only speaking from a trucking perspective -- when there was an under-capacity of trucking service available, consequently the price of shipping across the border started to go up, and carriers were charging cross-border fees and those sorts of things.¹⁰⁴ That is what got shippers' attention at that point, it was a productive period. Today you have got an over-capacity supply, rates are being cut, prices are coming down.¹⁰⁵ That is not a good thing from a truckers' perspective. Unless the increased costs of border crossing are being transferred to the customer directly, they do not see it.

MR. CONLEY: We have quite a few members who participate in the C-TPAT who are major importers, especially those sourcing in Northeast Asia.¹⁰⁶ We know that CBP has leaned on a lot of companies to participate, especially the major importers, because it goes to the point that Paul from Ford made earlier. That if you actually have the high volumes of trade, if you look at the top 10 containerized importers, Home Depot and Wal-Mart and Target, and if you have those guys taken care of, then you have shrunk the haystack. And so it helps Customs better align their resources to address those that still present a heightened risk.

MR. ROBINSON: Michael Robinson from Fasken Martineau in Toronto.

Could any of the panelists give us an update on what is going on with the second crossing at Windsor-Detroit? It seems to have gone to sleep for a while. I do not know whether it is political. The last word was we are going to get the bridge, and then supposedly governments have to cooperate and are not. So I just do not know what is going on.

MR. BRADLEY: Well, I will try to answer that. Again, it comes back to when do promises mean something. The timelines for the release of the

¹⁰⁴ Larry McKeown & Willa Rea, *Wheels of change: Employment in Canada's trucking industry, 1988-1994*, STATISTICS CANADA, <http://www.statcan.gc.ca/pub/61-532-x/3500-eng.html>, (stating "[T]he unemployment rate for truckers between 1991 and 1993 averaged 15 per cent").

¹⁰⁵ *Cf. id.*, (stating, "[T]he year 1994 shows a drop in the average number of months of job tenure. Possible explanations include the hiring of more drivers as business improves and the retirement of older drivers" and "the demand for truckers is increasing").

¹⁰⁶ Customs and Border Protection, *supra* note 80.

DRIC report -- I just keep extending. The timeline keeps being pushed out. I recall two government press releases that came out within 48 hours of each other a few years back where the timeline for completion increased by an entire year between the issuance of the first and second releases.

Nevertheless, the situation as I understand it now is that we will see the final DRIC report this spring.¹⁰⁷ Spring lasting until -- what, is it June 22nd -- and I have been reminded of that by officials at both levels of government. And so I am hoping that at that point we will see the report and it will say where the bridge is going to be. It will be a big surprise to everybody of course. However, the question is whether the politicians at from the senior levels of government will have the will to act expeditiously on the recommendation. This issue has been so fraught with local politics in Windsor. I know the mayor of Windsor, and we have had good discussion on this issue and collaboration on others. But we have reached the point now where the senior levels of government have got to say, "we have listened, we have consulted, this is the recommendation, we are getting on with it." It remains to be seen whether the will is there to do that.

My forecast is still it will be 30 years before we see a second bridge, and I desperately hope I am wrong this time. All the latest political commitments are that the bridge will be constructed by 2013.¹⁰⁸ I hope they are right.

MR. CONLEY: Yeah. I would not add anything to that other than the transportation infrastructure is across the country at major border crossings that was needed yesterday. And that actually obtaining funding for that and the design and construction of that infrastructure can be exceedingly and frustratingly slow.

But it is something that the U.S. Chamber thinks is very important. That particular crossing has such a high volume of the U.S. trade with Canada¹⁰⁹ that we think that is a project of national significance that deserves special attention. So it is one of the things we will be advocating for is that additional capacity.

MR. CARMODY: Additional question over here. My name is Chios Carmody, I teach at the University of Western Ontario.

We have been hearing a lot over the last couple of months about the possibilities of renegotiating NAFTA, and it may be that as time progresses, in fact, that idea of renegotiation takes on more and more substance. If we

¹⁰⁷ See, Detroit River International Crossing, <http://www.partnershipborderstudy.com/reports.asp> (last visited Oct. 16, 2008).

¹⁰⁸ Detroit River International Crossing, Frequently Asked Questions, March 2008, http://www.partnershipborderstudy.com/pdf/FAQ_March_2008-B.pdf, pg. 5 (last visited Oct. 16, 2008).

¹⁰⁹ Cf. U.S. Dep't of State, Background Note: Canada, <http://www.state.gov/r/pa/ei/bgn/2089.htm>, (last visited Oct. 17, 2008) (the annual volume of trade crossing the Ambassador Bridge is equal total annual U.S. exports to Japan).

are to renegotiate, and some Canadian commentators have been talking about the possibility of renegotiation,¹¹⁰ is there anything that we currently have in our trucking or transport arrangements that might possibly be included in an enhanced version of that, at least on a sort of wish list basis so that they become binding commitments in law rather than things that we simply talk about from a policy perspective?

MR. BRADLEY: Well, that is the issue. There is a transportation chapter in the current NAFTA agreement. However, the decision by the Clinton administration to unilaterally ignore the requirement to open the Southern border --¹¹¹ that was to have taken place about 10 years ago¹¹² There is a US-Mexico pilot underway now, so we will see but it is a matter of great political angst in some of the southern states. Mexico-Canada trade is growing, but it is such a small part of our economy that that is not a really big deal.¹¹³ I have a few carriers going to Mexico, but there will never be that many.

The lack of resolution to the southern border issue has stymied the trilateral discussions that were to have taken place to harmonize regulations across the border in terms of truck weights and dimensions, safety regulations, those sorts of things. There has been no progress on those matters.

So from my perspective, it would be, let us get back to what we agreed to in 1989 and just do it. So that is where we are at.

MS. ROSS: Tom, you made the remark that you are working—I think you said CBP—on trying to unify the definition of wait times. I wonder if you can take a minute and expand on that because I know that that has been a thorny issue at both borders.

MR. GARLOCK: Yes, and in fact, CBP told us in January that they are thinking about taking the formula that we have developed at the Niagara Falls Bridge Commission, not only across the northern border but across the southern border as well. And what it consists of is a very detailed examination of mile markers leading up to the PIL, computation of how many PILs are open, and the average inspection time. And we found the formula to be accurate within two or three minutes, and this is true at our

¹¹⁰ Jeffrey Simpson, *Whatever the Fears, NAFTA's Here To Stay*, *GLOBE & MAIL*, Apr. 22, 2008, at A15.

¹¹¹ See, North American Free Trade Agreement, http://www.nafta-sec-alena.org/DefaultSite/index_e.aspx?DetailID=78 (last visited Oct. 17, 2008).

¹¹² *Id.*

¹¹³ DFAIT, Canada's Merchandise Exports, http://www.international.gc.ca/eet/pdf/PFACT_Annual_MerchTrade_by_Country_Eng_Aug2008.pdf (last visited Oct. 17, 2008) (In 2007, only 1.101% of Canada's merchandise exports went to Mexico, compared with 79.035% destined for the United States).

bridges, at the Peace Bridge as well. I know that they are starting to roll out the formula at the Michigan-Ontario crossings as well.

Obviously, it does not do anything to reduce the queue. But I think if it creates awareness among officers from both agencies, just what the queue is, and we have eliminated the disagreement about what constitutes the queue that hopefully human nature being what it is, gee, I do not want my betters in Washington or Ottawa looking at these report times and wondering what is wrong with my report. And it is working very, very well. CBP is taking it seriously. They have assigned the director of the eastern Great Lakes to roll this out along the northern border. And as I have said, they have started to look at using it on the Mexican border as well. I think this summer you are at least going to be able to count on the accuracy on the wait times that both the operators and the CBP are announcing, and the CBSA is starting to buy into it as well.

MS. COOK: Hi. My name is Jennifer Cook, I am from the Consulate in Denver. My question is for Jason, but also other people on the panel.

From a communications perspective, you discuss how the business community really needs to get out there and explain the implications and the impacts that are going on in the case of the political rhetoric. Well, the political rhetoric has put a face to the out-of-work, unemployed factory worker in Ohio. What are the barriers in the business community and also government communicators like me who are trying to illustrate the issues? Why has it been so difficult for us to get the word out?

MR. CONLEY: You know, the U.S. Chamber has been very active on messaging the importance of all free trade agreements. We actually have a grass roots campaign called TradeRoots.¹¹⁴

And so we have been working in getting small businesses in locations across the country to say why trade is important to them. And so we have been activating that group for all – for DR-CAFTA, for the Columbia Free Trade Agreement, and for the Korea Free Trade Agreement.¹¹⁵ And I think that that sort of grass roots effort where you just do not have people in Washington, and to have the Chamber and NAM and others to say, ‘well, free trade's great and NAFTA's great.’ That is not enough. We need those small businesses who are employers in important congressional districts out there talking about why this is important.

And then I think it is also important to talk about, you know, why NAFTA matters, not just in the border states, but in Kentucky and Tennessee and in Florida and other states where you just may not think NAFTA and

¹¹⁴ See U.S. Chamber of Commerce: Trade Roots, <http://www.traderoots.org/> (last visited January 25, 2009).

¹¹⁵ See U.S. Chamber of Commerce: Trade Roots, Faces of Trade, http://www.traderoots.org/state_faces_trade.jsf?issueId=2216 (last visited Oct. 25, 2008).

think Canadian trade when you think about those states. But actually the Canadian Embassy actually has a very good map. It has been one of the single most useful pieces of material, you know, that we have been about to set up and show Congress and talk about and target our message to certain members. And until a member actually sees them, they say, 'well, wow I did not realize that was important in my state, that that meant jobs, you know, in Hazard, Kentucky,' or wherever that may be.

And so I think it is important to sort of dig down, and you just cannot have all organizations talking to one another in Washington. Well, conferences like this are great, and similar ones in D.C. happen all the time. It is important to get out there in the field and talk about that and have small businesses at the forefront saying why this is important to us.

DR. KING: I agree.

MR. ROSE: Thank you all very much.

(Session concluded.)

REMARKS FROM CANADIAN AMBASSADOR WILSON

Speaker - Hon. Michael Wilson

INTRODUCTION

Lee Friedman

MS. FRIEDMAN: Welcome to today's City Club forum. My name is Lee Friedman, and I have the privilege of serving as the president of The City Club of Cleveland.

For 95 years and from the heart of Downtown Cleveland, Ohio,¹ The City Club has served as one of the nation's premiere public podiums for civic dialogue about the most important topics of the day.² It is my honor this afternoon to introduce our distinguished guest.

The Honorable Michael Wilson serves as the Canadian Ambassador to the United States.³ He describes the Canadian-American relationship as one defined by family and friends, our shared history, and our commitment to innovation and economic prosperity.

Prior public life, Ambassador Wilson's career was in investment banking with responsibilities in corporate government and international finance.⁴ At UBS Canada, one of the world's leading financial institutions, he oversaw all operations in Canada, which included the investment bank, pension fund management, and wealth management businesses.⁵

¹ See The City Club – History, <http://www.cityclub.org/content/aboutus/index/history.asp> (last visited Sept. 29, 2008) (noting that The City Club of Cleveland was incorporated in 1912).

² See generally The City Club – About Us, <http://www.cityclub.org/content/aboutus/index/index.asp> (last visited Sept. 29 2008) (noting that The City Club is the longest uninterrupted forum series in the country and that most of the major issues that have affected American life in the 20th century have been discussed at The City Club).

³ Embassy Washington: The Ambassador, <http://geo.international.gc.ca/can-am/washington/ambassador/default-en.asp> (last visited Sept. 28, 2008).

⁴ *Id.*

⁵ *Id.*

Before joining UBS in 2001, Ambassador Wilson was responsible for RBC Financial Group's institutional asset management business.⁶ Serving as a vice chairman of RBC Dominion Securities, his responsibilities included senior client relationships and advising Canadian and international companies as well as governments.⁷

The Prime Minister of Canada, Stephen Harper, has said that the Ambassador's in-depth knowledge and experience in the financial sector and in government make him a strong advocate for Canada in negotiations with our most important bilateral partner.⁸

Ambassador Wilson began his career in government in 1979 when he was elected to the Canadian House of Commons.⁹ After several years, he was appointed Minister of Finance and then Minister of Industry Science and Technology.¹⁰ In his later role as Minister for International Trade, he participated in negotiating the North American Free Trade Agreement.¹¹

Ambassador Wilson is active in a number of professional and community organizations, including the NeuroScience Canada partnership and the Center For Addiction and Mental Health.¹² He is an officer of the Order of Canada and has honorary degrees from the University of Toronto and York University.¹³

Please join me in welcoming the Honorable Michael Wilson, the Canadian Ambassador to the United States.

⁶ *Id.*

⁷ *Id.*

⁸ Press Release, Office of the Prime Minister, Prime Minister Announces Diplomatic Nominations (Feb. 16, 2006), <http://pm.gc.ca/eng/media.asp?id=1020>.

⁹ *E.g.*, Embassy Washington: The Ambassador, *supra* note 3.

¹⁰ *See id.*

¹¹ *See Michael Wilson Mission: Washington*, CBC NEWS ONLINE, Feb. 17, 2006, http://www.cbc.ca/news/background/canada_us/mission_washington.html (discussing Ambassador Wilson's involvement in developing North American Free Trade Agreement).

¹² *See* Embassy Washington: The Ambassador, *supra* note 3.

¹³ *Id.*

CANADIAN SPEAKER

*Honorable Michael Wilson**

AMB. WILSON: Good afternoon ladies and gentlemen, Admiral Crowley. It is a great pleasure for me to be with you today. And, Lee, thank you very much for your very kind introduction. It is a great pleasure for me to be here for a particular reason, and that is that the relationship that we have between the United States and Canada is extremely important. It is our number one relationship by far, but it is also particularly important here because if you look out from the tall buildings, you can practically see Canada on the other side of Lake Erie. I am delighted to be here in Cleveland to be able to discuss with you some aspects of this.

Now, I do not need to remind anybody here that this city is the cultural, industrial, and financial center of Ohio.¹⁴ And it is one of the most livable cities in the United States.¹⁵ It is also, and I saw this with my very eyes, the Rock and Roll capital of the world.¹⁶ And just to remind you that there is a little element of Canada in that, one of your recent inductees this year to the Hall of Fame was Leonard Cohen, great Canadian poet, novelist, and troubadour,¹⁷ and he has probably got one of the best voices in the entertainment business today.

* Michael Wilson assumed his responsibilities as Ambassador on March 13, 2006, becoming the 22nd representative of Canada to the United States. Prior to taking up his current position in Washington, Ambassador Wilson was Chairman of UBS Canada, an operating division of UBS AG, one of the world's leading financial institutions where he oversaw all UBS operations in Canada, which included the Investment Bank, pension fund management, and Wealth Management businesses. Prior to joining UBS in July 2001, Ambassador Wilson was responsible for RBC Financial Group's institutional asset management business. He also served as a Vice Chairman of RBC Dominion Securities, responsible for senior client relationships and advice to both Canadian and international companies and governments.

¹⁴ See Cleveland – Ohio History Central, <http://www.ohiohistorycentral.org/entry.php?rec=687> (last visited Sept. 28, 2008) (noting Cleveland's importance as an industrial, economic and cultural center in the Midwest).

¹⁵ See Press Release, Economist Intelligence Unit, Vancouver Tops Livability Ranking According to a New Survey by the Economist Intelligence Unit (Oct. 3, 2005), <http://www.eiuresources.com/mediadir/default.asp?PR=660001866> (listing Cleveland as one of the highest scoring cities for livability in the U.S.).

¹⁶ See MIKE OLSZEWSKI, RADIO DAZE: STORIES FROM THE FRONT IN CLEVELAND'S FM AIR WARS 317 (2003) (explaining Cleveland's image as the "rock 'n' roll capital of the world").

¹⁷ See Press Release, Rock and Roll Hall of Fame and Museum, The Rock and Roll Hall of Fame Announces its Inductees for 2008 (Dec. 13, 2007), <http://www.rockhall.com/pressroom/2008-inductee-announcement> (announcing that Leonard Cohen was one of the 2008 inductees to the Rock and Roll Hall of Fame).

Now you have had some setbacks in your economy, and we have suffered some of those setbacks in Canada, so we do have something in common here.¹⁸ But looking past that, I think one of the things that we should never forget is the amount of dynamism, the experimentation, and the creativity that has made this state great over many, many years and will continue to do so.¹⁹

Your entrepreneurial vigor, your business innovation, your persistence has made you very successful in the international business world.²⁰ In fact, Ohio is the eighth largest exporter in the United States,²¹ and the number 2 exporter to Canada.²² I am not going to tell you who is number one because I do not want to draw any comparisons that you might not be happy with.²³ But they do not live too far away.

Canada has become your most important business partner.²⁴ Canada is your top export market.²⁵ And I do not need to tell people in this room today that Canada and the United States do many things together.²⁶ Obviously we do a lot of trading together, but also in the defense world, in the foreign diplomacy world, we are good partners and we work together.²⁷ Sometimes we think and act in a like-minded way, sometimes we think and act

¹⁸ See generally Brett Popplewell & Chris Sorensen, *Bleakness Reflected in Glass of House Red: Financial Crisis Begins Seeping into All Corners of Canada's Economy*, TORONTO STAR, Oct. 7, 2008, at B01, available at 2008 WLNR 19030176 (discussing global financial crisis' effects on Canadian economy).

¹⁹ See Ohio.gov, Job Creation in Ohio, <http://csa.das.ohio.gov/TurnaroundOhio/JobCreationinOhio/tabid/70/Default.aspx> (last visited Oct. 11, 2008) (noting that creativity and innovation built Ohio).

²⁰ See generally Exports, Jobs, and Foreign Investment: Ohio, http://www.trade.gov/td/industry/otea/state_reports/ohio.html (last visited Oct. 8, 2008) (discussing Ohio's foreign investments and exports).

²¹ See *id.* (noting that Ohio recorded the eighth largest export total of all 50 states in 2007).

²² International Business Information – The Export Patterns of States of the U.S.A., <http://www.ic.gc.ca/epic/site/ibi-iai.nsf/en/bi18597e.html> (last visited Oct. 8, 2008).

²³ See *id.* (noting that Michigan is the largest state exporter to Canada).

²⁴ See Embassy Washington, 2005 Ohio Trade Fact Sheets, http://geo.international.gc.ca/can-am/washington/state_trade_2005/ohio-en.asp (last visited Oct. 8, 2008) (reporting that Canada is Ohio's most important trade partner).

²⁵ See Embassy Washington, 2007 Ohio Trade Fact Sheets, http://geo.international.gc.ca/can-am/washington/state_trade_2007/ohio-en.asp (last visited Oct. 8, 2008) (noting that Canada is Ohio's largest foreign export market).

²⁶ See generally U.S. Department of State, Background Note: Canada, <http://www.state.gov/r/pa/ei/bgn/2089.htm> (last visited Oct. 14, 2008) (“The relationship between the United States and Canada is the closest and most extensive in the world.”).

²⁷ See Foreign Affairs and International Trade Canada – Defence, Security and Foreign Policy, <http://geo.international.gc.ca/can-am/main/defence/default-en.asp> (last visited Oct. 8, 2008) (describing the United States as Canada's most important ally and defence partner).

differently.²⁸ But we try to manage these differences through dialogue, through understanding, and that is a major part of my job in Washington.

I am grateful to the Canada-United States Law Institute and The City Club of Cleveland for the opportunity to comment briefly on the Canada-U.S. relationships from three points of view. The first is the challenges involving and maintaining border security without inhibiting the free flow of people, goods, and services.²⁹ Second, the economic growth in Ohio through trade with Canada.³⁰ And third, Canada's commitment to defending our continent and its values.³¹

Now I base my comments on two premises that I think underpin the theme of this year's Canada-U.S. Law Institute conference. The first is that we must make sure that the Canada-U.S. border provides gateways to prosperity, not cumbersome checkpoints that stifle our competitiveness. The second is that we must move beyond the idea of sharing the longest undefended border in the world. We now share the longest secure border in the world, and I want to talk about that a little later.

First on maintaining a secure border without jeopardizing two-way trade between Canada and the United States. Most of you are probably aware that Canada is the United States' most important partner in economic growth.³² It is the largest bilateral relationship in the world today.³³ Since the Canada-

²⁸ See generally Ian Austen, *Simmering Trade Disputes Will Greet Bush in Canada*, N.Y. TIMES, Nov. 27, 2004, available at <http://www.nytimes.com/2004/11/27/business/worldbusiness/27canada.html?fta=y> (discussing the trade disputes between the United States and Canada within an overall good trade relationship); Press Release, USTR, US, Canada Reach Agreement on Lumber Dispute (Apr. 27, 2006), http://www.ustr.gov/Document_Library/Press_Releases/2006/April/US_Canada_Reach_Agreement_on_Lumber_Dispute.html (discussing softwood lumber accord between United States and Canada).

²⁹ See generally ABA Immigration and Nationality Committee, *The Canada-U.S. Border: Balancing Trade, Security and Migrant Rights in the Post-9/11 Era*, 19 GEO. IMMIGR. L.J. 199 (2005) (discussing issues of balancing security and free-flow of goods across the Canada-U.S. border).

³⁰ See generally Embassy Washington, 2007 Ohio Trade Fact Sheets, *supra* note 25 (discussing the extensive trade relationship between Ohio and Canada).

³¹ See generally About DND/CF – National Defence and the Canadian Forces, http://www.forces.gc.ca/site/about/index_e.asp (last visited Oct. 13, 2008) (explaining that the Canadian Forces work with the United States to defend North America through arrangements such as the North American Aerospace Defence Command (NORAD)).

³² See Embassy Washington: The Canada-U.S. Trade and Investment Partnership, http://geo.international.gc.ca/can-am/washington/trade_and_investment/trade_partnership-en.asp (last visited Oct. 10, 2008) (noting that Canada and the United States share one of the world's largest and most comprehensive trading and investment relationship).

³³ See AGRICULTURE AND AGRI-FOOD CANADA, TRADE IN GRAINS AND OILSEEDS BETWEEN CANADA AND THE UNITED STATES 1 (2007), http://www.agr.gc.ca/itpd-dpci/country/Trade_in_Grains_e.pdf ("Canada and the United States enjoy the largest bilateral

U.S. Free Trade Agreement was signed in 1988, there is no doubt that our bilateral trade has been the key to this growth.³⁴ During those 20 years, Canada-U.S. trade has tripled.³⁵ Investment flows have also increased substantially.³⁶ In this context, the Canada-U.S. border is a challenge for both of us. And I would like to explain why.

The border is huge, much longer than the distance from Cleveland to Moscow.³⁷ Trade volumes are likewise huge.³⁸ Two-way trade crosses the Canada-U.S. border at the rate of \$1.7 billion a day, well over a million dollars every minute.³⁹

In 2007, Canada bought \$248 billion worth of goods from the United States.⁴⁰ Now, we all hear a lot about the trade relationship between the United States and China.⁴¹ Well, China bought \$56 billion from you.⁴² In other words, Canada buys nearly four times as much as China.⁴³ And by the way, Mexico buys about three times as much as China.⁴⁴ So your two

trading relationship in the world.”).

³⁴ See Canada-US Trade Relationship – U.S. Commercial Service Harrisburg, http://www.buyusa.gov/harrisburg/can_ustrade.html (last visited Oct. 11, 2008) (“These trade agreements have helped fuel unparalleled economic growth, with bilateral trade between Canada and the United States nearly tripling during the past twelve years.”).

³⁵ See *id.*

³⁶ See Government of Canada, 1989 Free Trade Agreement, <http://www.canadianeconomy.gc.ca/English/economy/1989economic.html> (last visited Oct. 9, 2008) (noting that investments between the United States and Canada have increased greatly since the Canada-U.S. Free Trade Agreement).

³⁷ See generally Geobytes, City Distance Tool, <http://www.geobytes.com/citydistancetool.htm> (last visited Oct. 13, 2008) (calculating the distance between Cleveland, OH and Moscow, Russia to be 7794 km); Canadainfo, Canada & the United States Border, http://www.craigmarlatt.com/canada/canada&the_world/canada&us_border.html (last visited Oct. 13, 2008) (noting the length of Canada-United States boundary to be 8891 km long).

³⁸ See Canada-U.S. Trade Relationship – U.S. Commercial Service Canada, <http://www.buyusa.gov/canada/en/traderelationsusacanada.html> (last visited Oct. 14, 2008) (noting large trade volume between the United States and Canada).

³⁹ See Embassy Washington: The Canada-U.S. Trade and Investment Partnership, *supra* note 32 (reporting that in 2007, over \$1.6 billion worth of goods and services crossed the border every day).

⁴⁰ See U.S. Department of State, Background Note: Canada, *supra* note 26 (reporting that the United States exported \$248.9 billion worth of merchandise to Canada).

⁴¹ See generally U.S. Department of State, Economic Relations Between the United States and China, <http://www.state.gov/p/eap/rls/64718.htm> (last visited Oct. 12, 2008) (describing the trade relationship between the United States and China).

⁴² Cf. Press Release, U.S. Department of Health and Human Services, Fact Sheet on U.S. Imports from the People’s Republic of China (May 12, 2008), <http://www.hhs.gov/news/facts/importsfromchina.html> (reporting that the United States exported \$65.2 billion to China in 2007).

⁴³ See *id.*; U.S. Department of State, Background Note: Canada, *supra* note 26.

⁴⁴ See generally Press Release, U.S. Department of Health and Human Services, Fact

NAFTA partners together buy seven times as much from the United States as China does.⁴⁵

Trade with Canada supports over seven million jobs across the United States.⁴⁶ That is one in 25 jobs depend on free and open trade with Canada.⁴⁷ And upwards of 400,000 people a day on average cross our border going both ways.⁴⁸ And as trade has extended freely across the border, more and more industries, companies, and suppliers operate on both sides of the border.⁴⁹ Assembling the parts of a single finished car, for example, can involve, three, four, five, or more border crossings in the various stages of manufacturing.⁵⁰ That is what we call the North American supply chain.⁵¹ It is the efficiency of North American supply chains that make our businesses more competitive with Asia and Europe and spurs innovation in our workforce.⁵²

Sheet on U.S. Imports from the People's Republic of China (May 12, 2008), <http://www.hhs.gov/news/facts/importsfromchina.html> (reporting that the United States exported \$65.2 billion to China in 2007); U.S. Department of State, Background Note: Mexico, <http://www.state.gov/r/pa/ei/bgn/35749.htm> (last visited Oct. 9, 2008) (reporting that Mexico imported \$141 billion from the United States 2007).

⁴⁵ See generally U.S. Department of State, Background Note: Mexico, *supra* note 44; U.S. Department of State, Background Note: Canada, *supra* note 26; Press Release, U.S. Department of Health and Human Services, Fact Sheet on U.S. Imports from the People's Republic of China (May 12, 2008), <http://www.hhs.gov/news/facts/importsfromchina.html>.

⁴⁶ See Embassy Washington: 2007 Ohio Trade Fact Sheets, *supra* note 25 (reporting that Canada-U.S. trade supports 7.1 million jobs in the U.S.).

⁴⁷ See Stephen Brereton, Op-Ed., *A Million Dollars a Minute*, PITTSBURGH-POST GAZETTE, June 20, 2008, available at <http://www.post-gazette.com/pg/08172/891221-35.stm> (reporting that one in twenty-five American jobs are supported by trade with Canada).

⁴⁸ See Blog.Cleveland.com, Bottlenecks at the Border are Taking a Toll on U.S.-Canada Trade, http://blog.cleveland.com/business/2008/07/bottleneck_at_the_border_aging.html (July 20, 2008 00:06 EST) (noting that, on average, 400,000 people cross the Canada-U.S. border each day).

⁴⁹ See DONALD F. WOOD ET AL., INTERNATIONAL LOGISTICS 80 (2002) (noting that many companies operate on both sides of U.S.-Canada border).

⁵⁰ See Jim Prentice, Minister of Indus., Address at the Toronto Board of Trade: Check Against Delivery (Feb. 29, 2008), available at <http://www.ic.gc.ca/epic/site/ic1.nsf/en/01926e.html> ("An automotive part can cross the Canada-U.S. border several times before it is installed in a vehicle.").

⁵¹ See Marlene Jennings, *Session 12: The Future of the Evolving, Special Canada-U.S. Relationship: New Dimensions and Possible Future Progress and Concerns. Differing Approaches to Our Common Values and Experiences*, 31 CAN.-U.S. L.J. 385, 387-88 (2005) (discussing shipments in North American supply chains).

⁵² Cf. Shawnee K. Vickery et al., *The Effects of an Integrative Supply Chain Strategy on Customer Service and Financial Performance: An Analysis of Direct Versus Indirect Relationships*, 21 J. OPERATIONS MGMT. 523, 528 (2003) (noting the positive relationship between supply chain integration and customer service and performance improvement with respect to productivity, quality, market share, and profitability).

What has developed in many sectors is an integrated continental economy using North American supply chains.⁵³ An example here in Ohio is Honda.⁵⁴ It has used new supplier opportunities with Honda Canada to develop a supply chain model that benefits both of our countries and has resonated throughout the company's global operations.⁵⁵ This is the North American economic space, our path to future prosperity.

Now, why is it important? Well, today over a third of the Canada-U.S. trade occurs between branches of the same corporation, and a similar amount for trade within established supply chains.⁵⁶

Now, we can see how inefficiencies in the supply chain at our shared border take us in the wrong direction. They decrease competitiveness for North American companies, but it also follows that a smart and efficient border is essential for our highly integrated industries.⁵⁷ So a border problem is not just a Canadian problem, it is also a United States' problem.⁵⁸

And at the same time, both countries are rightly concerned about North American security.⁵⁹ This is not in dispute. We secure our continent best by seeking out problems before they hit the border, and sometimes before they reach North American shores.⁶⁰ And we do this best by working

⁵³ See Ministerial Declaration: Canada-Mexico-United States Trilateral Transportation Meeting, <http://www.tc.gc.ca/mediaroom/statements/2008/2008-06-10.htm> (last visited Oct. 14, 2008) (noting the growth of integrated supply chains).

⁵⁴ See generally Honda of America Manufacturing, Inc., Marysville, Ohio, <http://www.ohio.honda.com> (last visited Oct. 12, 2008) (describing Honda as an economic engine for Ohio).

⁵⁵ See HONDA, HONDA NORTH AMERICAN ENVIRONMENTAL REPORT 2008 23 (2008), <http://www.honda.ca/HondaCorp/en/pdf/Honda2008NAEnviroReport.pdf> (discussing Honda plants in Ohio, Tennessee, and Ontario that are integrated into a single system geared toward optimizing efficiency throughout the supply chain).

⁵⁶ See IAN F. FERGUSSON, CRS REPORT FOR CONGRESS: UNITED STATES-CANADA TRADE AND ECONOMIC RELATIONSHIP: PROSPECTS AND CHALLENGES 4-5 (2008), available at <http://www.nationalaglawcenter.org/assets/crs/RL33087.pdf> (noting that one study estimates 45% of U.S.-Canada trade occurs intra-firm).

⁵⁷ See Roger F. Noriega, Assistant Sec'y of State for W. Hemisphere Affairs, Remarks to the Economic Club of Toronto: Trade and the Canada-U.S. Border (Mar. 29, 2004), available at <http://www.state.gov/p/wha/rls/rm/31949.htm> (discussing the joint efforts of the U.S. and Canada to ensure efficient movement of goods across border).

⁵⁸ See MINISTER OF PUBLIC WORKS AND GOV'T SERVICES CANADA, CANADA-UNITED STATES ACCORD ON OUR SHARED BORDER 2 (2000), available at <http://dsp-psd.pwgsc.gc.ca/Collection/Ci51-95-2000E.pdf> (discussing Canada and the United States' commitment to combating shared problems on the border).

⁵⁹ See generally Security and Prosperity Partnership of North America: Security Agenda, <http://www.spp-ssp.gc.ca/overview/security-en.aspx> (last visited Oct. 16, 2008) (discussing the joint efforts between Canada, U.S., and Mexico to ensure the security of North America).

⁶⁰ See *id.* (discussing the SPP's efforts to identify problems before they reach North America).

collaboratively with our American counterparts.⁶¹ The effectiveness of that close collaboration came through very clearly in my meeting yesterday with the U.S. Coast Guard. The Admiral and I were just talking about that over lunch.

At the Coast Guard they described the working relationship with their Canadian counterparts, and the word that came up a number of times was seamless. But it is broader than that. Every day law enforcement agencies on both sides of the border are working closely to assess trends, information, and progress in their joint efforts to make sure that our border remains open for business, but closed to terrorists and criminals.⁶²

So even though the security preparedness is much better on both sides of the border since 9/11, I regret to have to say that the border is thickening.⁶³ Often a new border rule or a regulation can appear to be quite sensible taken in its own. But taken together with a myriad of other rules in effect can significantly increase the cost of the cross-border transaction.⁶⁴

For example, hours of service regulations for truckers specifying the time limits that a trucker may drive makes sense from a safety perspective, but when that same truck driver is faced with border congestion due to increased border inspections funded by a multitude of new inspection fees, he or she can easily run out of time sitting in the line-up at the border.⁶⁵ This can delay the just-in-time delivery of supplies to the other side of the border, causing a whole production line to slow down or even to shut down. Against a backlog of increasing fuel costs, these increased rules and fees drive down profits for our best corporate citizens.⁶⁶ More importantly they reduce the North American competitive advantage in a highly cost-competitive global marketplace.⁶⁷

⁶¹ See *id.* (discussing close collaborative approach to North American safety).

⁶² See Public Safety Canada, Canada-U.S. Border Security, <http://www.publicsafety.gc.ca/prg/le/bs/index-eng.aspx> (last visited Oct. 12, 2008) (discussing the joint effort of Public Safety Canada and the Attorney General of the U.S. to address cross-border crimes).

⁶³ See generally *PM Voices Concerns About 'Thickening' of U.S. Border*, CBC NEWS, Apr. 22, 2007, <http://www.cbc.ca/world/story/2008/04/22/three-amigos.html> (reporting that Prime Minister Stephen Harper raised concerns about the “thickening” of the Canada-U.S. border at the end of the Three Amigos summit).

⁶⁴ See Blog.Cleveland.com, *supra* note 48 (discussing transportation backups at the Canada-U.S. border).

⁶⁵ See *id.*

⁶⁶ See *id.* (noting that border security measures are costing companies money).

⁶⁷ See NORTH AMERICAN COMPETITIVENESS COUNCIL, ENHANCING COMPETITIVENESS IN CANADA, MEXICO, AND THE UNITED STATES 14 (2007), http://www.ceocouncil.ca/en/more_type/?type_id=5&year=2007 (follow “Enhancing Competitiveness in Canada, Mexico, and the United States – Initial Recommendations of the North American Competitiveness Council (NACC)” hyperlink) (discussing how the need for heightened security at the border has added to costs and undermined North American competitive

Now, let me give you another example, and this is in the news quite frequently. Most of us have probably heard of the Western Hemisphere Travel Initiative, WHTI, or if not by that name, certainly the new U.S. travel document requirements for Canadians to enter and Americans to return to the United States.⁶⁸ Our goal here is that a critical mass of a limited number of acceptable documents be in place in both countries by the time WHTI is implemented, and the target date for that is June of 2009.⁶⁹

Several provinces and states are also working on plans for enhanced driver's licenses to be used as an alternative to travel documents.⁷⁰ And the goal is that with proper planning and with the availability of choices of WHTI compliant documents, we can implement WHTI without increasing the gridlock at the border, and that is an important objective for us all.⁷¹ Now I know for many of you here today, keeping the border smart is top of mind, and one of my jobs is to keep that top in mind.

Now, let me turn briefly to my second point, and that is economic growth in Ohio through trade with Canada, a focus on the Buckeye state today. But you should know Canada also ranked number one in 35 states as the leading export market for U.S. goods in 2007.⁷² As I said earlier, you are one of those number one states.⁷³ Now almost half of Ohio's goods, 46 percent, go to Canada.⁷⁴ Ohio exports 13 times as much to Canada as it does to China.⁷⁵

advantage).

⁶⁸ See Press Release, U.S. Department of Homeland Security, Homeland Security and State Departments Announce WHTI Land and Sea Final Rule (Mar. 27, 2008), http://www.dhs.gov/xnews/releases/pr_1206634226418.shtm (explaining that WHTI requires travelers, including U.S. citizens and Canadians, to present a passport or other approved secure document to enter the United States).

⁶⁹ See *id.* (noting that document requirements of WHTI will be effective June 1, 2009).

⁷⁰ See *id.* (reporting that the U.S. Department of Homeland Security has officially designated the Washington State Enhanced Driver's License as a WHTI-compliant document, and those additional states and Canadian provinces plan to issue Enhanced Driver's Licenses in the next several months).

⁷¹ See *generally id.* (explaining that the implementation of WHTI will enable Customs and Border Protection officers to quickly and accurately identify travelers).

⁷² See Connect 2 Canada: Trade, <http://www.connect2canada.com/facts/trade/> (last visited Oct. 12, 2008) ("In 2007 Canada was the # 1 export market for 35 states.").

⁷³ See Embassy Washington: 2007 Ohio Trade Fact Sheets, *supra* note 25 (noting that Canada is Ohio's largest foreign export market).

⁷⁴ See Embassy Washington: 2008 Ohio Trade Fact Sheets, http://geo.international.gc.ca/can-am/washington/state_trade_2008/oh-en.asp (last visited Oct. 8, 2008) (reporting that Canada purchases 46% of Ohio's foreign-bound goods).

⁷⁵ Cf. OHIO DEPARTMENT OF DEVELOPMENT, OHIO EXPORTS 2007: ORIGIN OF MOVEMENT SERIES 5 (2008), available at <http://www.odod.ohio.gov/research/files/b000000004.pdf> (reporting that Canada receives 46% of Ohio's exports compared to China's 4%).

And your state has a significant trade surplus with Canada, a surplus that has been growing.⁷⁶

Sometimes it is difficult for people in the street to understand that trade both ways creates jobs.⁷⁷ They see imports, but they do not see exports. And therefore, they do not link exports necessarily to jobs.⁷⁸ Yet each hour around the clock, over \$3.7 million in trade crosses Ohio's border on the way to and from Canada, trade that supports more than 275,000 jobs right here in Ohio.⁷⁹

And when I talk about trade with the United States, I always mention trade that we have in energy products. We are a major partner in U.S. energy security, so very important in today's world.⁸⁰ Canada's largest export to Ohio is energy, about \$4.2 billion worth in 2006.⁸¹ The U.S. imports far more oil and energy products from Canada than from any other country.⁸² Canada supplies more crude oil to the United States than Saudi Arabia and Iraq combined.⁸³ In other words, the safest and most abundant source of energy outside of the United States for the United States is just across the northern border in very friendly hands.⁸⁴

I would like to add a few points here about Canada's economy. Our economy has been relatively strong.⁸⁵ And having an economically flourishing neighbor makes for a good market for Ohio products.⁸⁶ Despite

⁷⁶ See generally Embassy Washington: 2008 Ohio Trade Fact Sheets, *supra* note 74 (reporting that in 2007, Ohio exported more to Canada than it imported).

⁷⁷ See generally *id.* (reporting that the Canada-U.S. trade supports 276,500 Ohio jobs).

⁷⁸ But cf. David Griswold, *The U.S. Trade Deficit and Jobs: The Real Story*, CTR. FOR TRADE POLICY STUDIES: FREE TRADE BULLETIN, Feb. 2003, <http://www.freetrade.org/node/97> (last viewed Oct. 12, 2008) (demonstrating that the premise that exports create jobs is commonly accepted - it is imports that people believe eliminate jobs).

⁷⁹ See Embassy Washington: 2008 Ohio Trade Fact Sheets, *supra* note 74 (reporting that the Canada-U.S. trade supports 276,500 Ohio jobs).

⁸⁰ See U.S. Dept. of State, International Aspects of U.S. Energy Security, <http://www.state.gov/e/irm/2003/19447.htm> (last visited Oct. 11, 2008) (identifying cooperation with Canada as a part of U.S. energy security policy).

⁸¹ See Embassy Washington, 2007 Ohio Trade Fact Sheets, *supra* note 25 (reporting that Ohio imported \$4.154 billion worth of crude petroleum from Canada in 2006).

⁸² See Energy Information Administration, Crude Oil and Total Petroleum Imports Top 15 Countries, http://www.eia.doe.gov/pub/oil_gas/petroleum/data_publications/company_level_imports/current/import.html (last visited Oct. 11, 2008) (listing Canada as the largest exporter of crude oil and petroleum to the U.S.).

⁸³ Cf. *id.* (showing Canadian oil supplies to be slightly less than the amount supplied by Saudi Arabia and Iraq combined).

⁸⁴ See *id.* (listing Canada as the number one supplier of crude oil and total petroleum to the U.S.).

⁸⁵ DEP'T OF FINANCE CANADA, STRONG LEADERSHIP. A BETTER CANADA: ECONOMIC STATEMENT 16 (2007), available at http://www.fin.gc.ca/ec2007/pdf/EconomicStatement2007_E.pdf.

⁸⁶ See generally *id.* at 30 (identifying that Canadians now have increased purchasing pow-

the disruptions in several markets, our economy is still forecasted to expand by 1.3 percent in 2008, and then just short of 2 percent in 2009.⁸⁷ We will be affected by any slowdown in the United States, but overall we have a reasonable outlook.⁸⁸ This is reflected in the current, very strong Canadian dollar.⁸⁹ While it is hurting our export industries,⁹⁰ we are feeling wealthier, meaning our dollar goes further when we buy goods in the United States or when we take holidays here.⁹¹

Canada has the best fiscal situation in the G-7 countries.⁹² We have ten years of budget surpluses and a sharpening decline in debt-to-GDP ratio.⁹³ Inflation remains low, stable, and predictable.⁹⁴ While our banking and financial system has not been able to avoid the turbulence in U.S. and global capital markets, prudent financial market oversight has limited both the extent of our housing boom and the growth of sub-prime related debt.⁹⁵ As a result, our banking system has come through this difficult period in a relatively strong shape.⁹⁶

Finally, following a series of cuts to personal and corporate income taxes, the tax burden facing individuals and businesses has become significantly more competitive, particularly when compared with most other OECD countries.⁹⁷ So you should expect to see more Ohio goods and services going north to Canada.

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⁸⁷ See generally *id.* at 8 (listing positive growth projections for the Canadian economy despite the harsh economic climates elsewhere).

⁸⁸ See generally *id.* (discussing the challenge to the Canadian economy from the housing and credit crisis in the United States).

⁸⁹ See *id.* (reporting the Canadian dollar has traded above parity with the U.S. dollar for the first time in 30 years).

⁹⁰ See *id.* at 27 (explaining that the higher dollar presents a "significant challenge" to exporters).

⁹¹ See *id.* at 30 (explaining that the higher dollar reduced the price of imported consumer goods and increased Canadians' real purchasing power).

⁹² *Id.* at 52.

⁹³ See *id.* at 31 (reporting that the Canadian government has shifted from large deficits to surpluses beginning in the early 1990s).

⁹⁴ *Id.* at 24.

⁹⁵ See generally *id.* at 16 (explaining that the effects of recent turmoil in global financial markets and a declining U.S. housing market continue to pose challenges to the Canadian economy).

⁹⁶ But see Duncan Mavin, *Joining the Ranks of Banking's Big Losers*, FINANCIAL POST, May 30, 2008, <http://www.financialpost.com/story.html?id=549749> (disputing the belief that Canadian banks have done well during the current financial crisis).

⁹⁷ See DEP'T OF FINANCE CANADA, *supra* note 86, at 80 (showing Canada's marginal effective tax rate to be lower than the average tax rate of OECD countries).

Of course, the Canada-U.S. relationship goes well beyond trade.⁹⁸ I would like to conclude with some comments on my third point: Canada's commitment to defense cooperation. Canada and the United States have built broad and deep foundations through 350 agreements and treaties that cement our mutual cooperation.⁹⁹

We have a long history together defending our continent and our values. As I mentioned earlier, a very significant era of cooperation is in public safety or what is called here Homeland Security.¹⁰⁰ Mutual support, border security, law enforcement, intelligence communities, and many other behind-the-scenes activities to keep North America safe.¹⁰¹ Our defense industries have been integrated since the Second World War.¹⁰²

Last October, for instance, Boeing delivered to Canada a second C-17 large transport aircraft, and that is a \$1.8 billion deal.¹⁰³ Just three months ago the Canadian government announced a \$1.4 billion contract with Lockheed Martin for 17 Super Hercules aircraft, and there is a maintenance contract that would add about \$3 billion more.¹⁰⁴

For half a century though, we have shared joint command of the North American Aerospace Defense Command, NORAD.¹⁰⁵ This May, a month

⁹⁸ See generally Richard J. Kilroy, Jr., *Perimeter Defense and Regional Security Cooperation in North America: United States, Canada, and Mexico*, HOMELAND SECURITY AFFAIRS, Dec. 2007, at 1, 3, <http://www.hsaj.org/pages/supplement/issue1/pdfs/supplement.1.3.pdf> (discussing the defense and regional security cooperation between Canada and the United States).

⁹⁹ See *id.* at 4 (noting that Canada and the U.S. are party to “over 80 treaty-level defence agreements, more than 250 memoranda of understanding between the two defence departments, and approximately 145 bilateral forums in which defence matters are discussed”).

¹⁰⁰ See generally *id.* at 6 (identifying Canada's relationship with the U.S. regarding Homeland Security).

¹⁰¹ See generally *id.* at 5 (reporting on the diplomatic efforts between Canada and the U.S. as it relates to the defense of the Northern Hemisphere).

¹⁰² See *id.* at 3 (commenting on the significance of military ties between Canada and the U.S. during World War II).

¹⁰³ See Press Release, Holly Bridges, Dep't of Nat'l Defence, Second CC-177 Globemaster III Arrives at 8 Wing Trenton (Oct. 19, 2007), http://www.airforce.forces.gc.ca/8wing/news/releases_e.asp?cat=99&id=4597 (reporting that Canada has received its second giant strategic airlifter, the CC-177 Globemaster III).

¹⁰⁴ Press Release, Lockheed Martin, Lockheed Martin Receives \$1.4 Billion Contract for 17 C-130J Super Hercules Aircraft for Canada (Jan. 18, 2008), http://www.lockheedmartin.com/news/press_releases/2008/0118ae_c-130canada.html (last visited Oct. 9, 2008).

¹⁰⁵ See North American Aerospace Defense Command, <http://www.norad.mil/about/agreement.html> (last visited Oct. 9, 2008) (describing the agreement to establish a bi-national command between Canada and the U.S. for control of continental air defenses signed on May 12, 1958).

from now, will mark the 50th anniversary of the signing of the original NORAD agreement to defend the continent.¹⁰⁶

Since 9/11 more than 18,000 Canadian soldiers have served in Afghanistan.¹⁰⁷ Their mission is two-fold: to make sure that a resurgent Taliban does not threaten the great gains made in Afghanistan under the protection of the NATO mission,¹⁰⁸ and to help create an environment where a reconstruction development and good governance can flourish.¹⁰⁹ And it is flourishing. There are some good signs here.¹¹⁰ We have got a long way to go, but a lot of progress has been made in the last five or six years.¹¹¹ Afghanistan is Canada's largest recipient of foreign aid.¹¹² A number of Canadians have died there, 82 soldiers, a diplomat, and a civilian aid worker.¹¹⁴

Currently about 2,500 members of the Canadian forces are serving in Afghanistan as part of the U.N.-sanctioned and NATO-led International Security Assistance Force.¹¹³ We are in the most dangerous part of that country in the south right along the Pakistan border.¹¹⁴

And just last month we had quite a strong political debate.¹¹⁵ Last month our House of Commons voted to extend Canada's mission in Afghanistan for another two years to July of 2011 provided that certain conditions are met.¹¹⁶

¹⁰⁶ See *id.*

¹⁰⁷ See CanadianAlly.com, Counterterrorism, <http://www.canadianally.com/ca/Counterterrorism-en.asp> (last visited Oct. 9, 2008) (reporting that since October 2001, Canada has deployed approximately 18,000 soldiers in Afghanistan).

¹⁰⁸ See generally CBC News, Canada in Afghanistan, <http://www.cbc.ca/news/background/afghanistan/canada.html> (last visited Oct. 9, 2008) (explaining that the Canadian military focus must shift gradually from combat to training Afghan national security forces).

¹⁰⁹ *Id.*

¹¹⁰ See Government of Canada, Progress in Afghanistan, <http://www.canadainternational.gc.ca/canada-afghanistan/progress-progres/index.aspx> (last visited Oct. 11, 2008) (reporting on the progress already made in Afghanistan despite the challenges that remain).

¹¹¹ *Id.*

¹¹² See Canadian International Development Agency, <http://www.cida.gc.ca/afghanistan-e> (last visited Oct. 9, 2008).

¹¹⁴ See generally CBC News, Canada's Casualties, <http://www.cbc.ca/news/background/afghanistan/casualties/list.html> (last visited Oct. 9, 2008) (listing updated casualty figures from Canada's involvement in Afghanistan).

¹¹³ Foreign Affairs and International Trade, Canada in Afghanistan, https://international.gc.ca/foreign_policy/nato/canada_in_afghanistan-en.asp (last visited Oct. 9, 2008).

¹¹⁴ See *Canada Wants NATO Help in Afghanistan*, USA TODAY, Jan. 28, 2008, http://www.usatoday.com/news/world/2008-01-28-canada-afghanistan_N.htm (identifying Canada as the only NATO country willing to position troops in the dangerous southern region of Afghanistan).

¹¹⁵ See generally *Canada's House of Commons Extends Afghan Mission*, CNN.COM, Mar.

We needed a country to partner with us in Canada, in our province, where our combat forces are responsible for an area about the size of West Virginia. And at the recent NATO summit in Bucharest, the French announced that that they would send an additional battalion to Eastern Afghanistan, which is where the United States is predominantly centered, and this has allowed the U.S. to commit to send troops to reinforce our forces in the south, and that has very well been used for Canada.¹¹⁷ Canada also welcomes the deployment of 3,200 U.S. Marines who will be with us in South Afghanistan for the balance of this year.¹¹⁸ Our collective work in Afghanistan is another great example of how our two countries work so well together.

Now, I began today by noting that Canada and the United States do many things together. We make things together, we are business partners, and we are clearly allies.¹¹⁹ The Canada-U.S. Law Institute framed its conference this year with a question: The World's Longest Undefended Border: Gateway Or Checkpoint? In response, I will repeat what I said at the outset. The Canada-U.S. border is the longest secured border in the world.¹²⁰ Trade between us is vital for a shared competitiveness in the very tough global economy.¹²¹

Together we must ensure that our border provides a gateway for our economic prosperity. The government of Canada has one first-priority relationship, and that is with the United States.¹²² And I am proud to stand before you today to speak here on behalf of Canada because I know I am among friends.

13, 2008, <http://edition.cnn.com/2008/WORLD/americas/03/13/canada.afghanistan/index.html> (reporting on the political opposition within the House of Commons to Canada's military involvement in Canada).

¹¹⁶ See *id.* (noting that Canada's continued participation in Afghanistan is conditioned on receiving another country's assistance in governing the southern region).

¹¹⁷ See Colin Brown, *Sarkozy Comes to Bush's Rescue with 1,000-Strong Force for Afghanistan*, THE INDEPENDENT, Apr. 4, 2008, <http://www.independent.co.uk/news/world/politics/sarkozy-comes-to-bushs-rescue-with-1000strong-force-for-afghanistan-804543.html>.

¹¹⁸ See *id.*

¹¹⁹ See Foreign Affairs and International Trade Canada, *A Unique and Vital Relationship*, http://geo.international.gc.ca/can-am/main/front_page/relationship-en.asp (last visited Oct. 11, 2008) (identifying the economic and defense elements of the relationship).

¹²⁰ See Government of Canada, *Building a Smart Border for the 21st Century*, <http://www.canadianembassy.org/border/declaration-en.asp> (last visited Oct., 11, 2008) (commenting on the security of the border).

¹²¹ See generally NORTH AMERICAN COMPETITIVENESS COUNCIL, MEETING THE GLOBAL CHALLENGE 11 (2008), http://www.uschamber.com/publications/reports/0804_global_challenge.htm (describing the need for North American governments to increase cooperation in light of the competitive global competition).

¹²² See generally Foreign Affairs and International Trade Canada, *A Unique and Vital Relationship*, *supra* note 121 (identifying elements of the Canada-U.S. relationship that establish its paramount importance to the Canadian government).

Thank you very much.

MS. FRIEDMAN: Today, at The City Club of Cleveland, we are listening to the Honorable Michael Wilson, Canadian Ambassador to the United States. We will return to our speaker in a minute for our traditional City Club questions. We encourage you to formulate questions now, and remind you that your questions should be brief and to be point.

DISCUSSION FOLLOWING THE REMARKS OF HON. MICHAEL WILSON

MR. SMITH: Ambassador Wilson, before my question, I must say that I worked for a good while with Sunlight of Canada and have a real appreciation of the country. From my complete ignorance before, I became very, very impressed. The only question I have is you mentioned the secure border. How is it secure from, say, Minnesota to Washington?

AMB. WILSON: It is a question that we face every day because we do not have a lot of physical security along the border.¹²³ But where we do our work, and it is very effective work, is through a variety of cooperative ventures.¹²⁴ As I said, we have good cooperation with local police, with the national police forces, in our case the RCMP, and in your case, the FBI.¹²⁵ But also we compare notes regularly, intelligence information, and in that way, try to help each other understand where the threat is, and do what we can to address that threat.¹²⁶

This is all focused on what we call integrated border enforcement teams, IBETs.¹²⁷ And these are integrated teams.¹²⁸ I have sat around the table with them, and I cannot tell unless I am listening carefully for an accent. I cannot tell whether it is an American or a Canadian talking because they work so well together.

That is really the principle basis or the principle method that we use.¹²⁹ It is using information that we collect behind the borders so that before the

¹²³ See generally Kevin Bohn, *Security on U.S.-Canada Border Fails Terror Test*, CNN.COM, Sept. 27, 2007, <http://www.cnn.com/2007/US/09/27/border.security/index.html> (reporting that there is a great disparity in the law enforcement presence between the U.S.-Canada border and the U.S.-Mexico border).

¹²⁴ See Foreign Affairs and International Trade Canada, *Border Cooperation*, <http://geo.international.gc.ca/can-am/main/border/default-en.asp> (last visited Oct. 11, 2008) (detailing the cooperative measures between the United States and Canada).

¹²⁵ See generally Treasury Board of Canada Secretariat, *Royal Canadian Mounted Police*, <http://www.tbs-sct.gc.ca/dpr-rmr/2006-2007/inst/rcm/rcm10-eng.asp> (last visited Oct. 11, 2008) (detailing the multijurisdictional efforts of the RCMP in protecting Canada).

¹²⁶ See *id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ See *id.*

threat hits the borders, in most cases we know who it is, and we can deal with it accordingly.¹³⁰

MR. TAFT: Ambassador, I think it is fair to say Americans have a very ambivalent view of the Canadian health care system.¹³¹ We are envious of your universal coverage, but skittish at the notion that along with universal coverage may come degrees of waiting for service that impatient Americans might not tolerate.¹³² What might we learn, what might you help convey to us as insights about how to construct a national health care system that would be withdrawing the Canadian experience and be helpful to us?

AMB. WILSON: I am not going to get into detail on that. What I will say is I think there are things we can learn from each other on health care system. You have pointed out one of the issues that we have in our system that the waiting lists are too long; governments are committed to address this; governments federally and provincially are committed to address this, but it is a challenge.¹³³

We have I would say —is that because there is a single payer which covers a large portion of our health care costs that we have a tighter control on the total expenditures.¹³⁴ But part of the outcome of that is that there is not sufficient amount of money to address some of these problems of waiting lists. I will make a comment that I may live to regret when I go and see my doctor in Canada next, but I have a sense that one of the outcomes, one of the characteristics of the U.S. system is that it is much more expensive than the Canadian system; I think we spend about 11 percent of GDP or north of 15 percent, so there is quite a difference there.¹³⁵

What this has resulted in is a greater effort on the part of doctors in this country to provide more of a sense of service to you. I will give you an

¹³⁰ See *id.*

¹³¹ See Harris Interactive, Harris Poll #56, http://www.harrisinteractive.com/harris_poll/index.asp?PID=486 (last visited Oct. 11, 2008) (showing that just less than half of Americans feel very positively about the Canadian Health Care system).

¹³² See Timothy Stoltzfus Jost, Op-Ed., *Universal Coverage: Nothing to Fear*, ABC NEWS, Oct. 18, 2006, <http://abcnews.go.com/Health/PrescriptionForChange/Story?id=2578064&page=2> (last visited Oct. 11, 2008).

¹³³ See generally Health Canada, Health Care System, <http://www.hc-sc.gc.ca/hcs-sss/qual/acces/wait-attente/index-eng.php> (last visited Oct. 11, 2008) (reporting on Canadian government's ten-year plan to reduce waiting times for access to health care).

¹³⁴ See National Union of Public and General Employees, U.S. should adopt Canada's public health care model, http://www.nupge.ca/news_2004/n22se04c.htm (last visited Oct. 12, 2008) (listing the advantages to Canada's health care system as it relates to controlling costs).

¹³⁵ See Press Release, Canadian Institute for Health Information, Health Care Spending to Reach \$160 Billion This Year (Nov. 13, 2007), http://secure.cihi.ca/cihiweb/dispPage.jsp?cw_page=media_13nov2007_e (reporting that Canadian government expected to spend 10.6% of GDP on healthcare in 2007).

example. I had a small procedure done. I was going to bed that night around quarter to 10, and then my phone rang. It was my doctor saying how do you feel, any pain? Here is something that you might want to do for that pain.

And I would never expect to see that or have that in Canada. I do not know whether this was an unusual doctor, but there is also a greater sense of competition in this country. "I want you as my patient," and not "I know I have got patients coming to me because it is a universal system."

So, I think it works pretty well, but there are issues. We do have problems, but I am not going to stand here and tell you what you should do with your system.

UNIDENTIFIED SPEAKER: Mr. Ambassador, thank you for your remarks. For many years we talked about a ferry between Cleveland and Canada.¹³⁶ Do you have any information on that?

AMB. WILSON: We had some meetings with the Port of Cleveland this morning. We talked about that proposal. We are some distance between the idea that has been discussed, tossed around for some years now, and the fruition. But what we did talk about, I was really quite encouraged by and I will speak personally here. I was not sufficiently aware of some of the opportunities that we should be following between our two countries utilizing shipping on the Great Lakes that is short sea shipping.¹³⁷

Short sea shipping is going to be more and more of an option of dealing with some of the transportation challenges that we have between our two countries.¹³⁸ Particularly the case in the Great Lakes area where we cannot cross by highways except at bridge points, such as the Detroit-Windsor crossing or the crossings along the Niagara Peninsula.¹³⁹

So we did talk about some of the possibilities of having points in the middle of Lake Erie, as an example, on both sides where we could bypass the highways with trucking and take some of the congestion off the roads. And maybe provide a greater sense of certainty on the timing of the arrival of the business inputs, the parts that are important in the manufacturing process.

What I am saying is on that specific proposal, is that we have offered to try and facilitate some action, but it does not sound to me that we are too

¹³⁶ See generally Port of Cleveland, Trans-Erie Ferry, <http://www.portofcleveland.com/maritime/ferry.asp> (last visited Oct. 10, 2008) (discussing a proposed trans-Erie ferry).

¹³⁷ See generally Transport Canada, Short Sea Shipping Market Feasibility Study, <http://www.tc.gc.ca/TDC/projects/marine/a/5563.htm> (last visited Oct., 10, 2008) (reporting on the advantages of short sea shipping, including at the Great Lakes).

¹³⁸ See generally *id.* (speaking of the need to reduce highway and rail congestion through short sea shipping).

¹³⁹ See generally Transport Canada, International Structures, <http://www.tc.gc.ca/programs/surface/bridges/internationalstructures.htm> (last visited Sept. 30, 2008) (list of international bridges in Canada).

close right now. But on the broader concept, I came away from the meetings feeling quite positively.

MS. PAWLUCH: Good afternoon, Mr. Ambassador. In the interest of full disclosure, I am a Canadian. I am from Toronto, and I am here participating in the Canada-U.S. Law Institute Annual Conference. I have the privilege of serving on the advisory board.

My question, Mr. Ambassador, concerns the concept of a continental perimeter. Over the last few years we have heard the concept of perhaps moving towards a continental perimeter, where we essentially establish the boundaries around the continent and have goods and people moving more freely within the continent, à la European Union, for example.¹⁴⁰ And some of the comments that you made today reinforce the fact that we have moved towards collaborations in different respects in terms of border security. And indeed I talked to some of the participants here, someone from the Halifax Port Authority who tells me that there are shared responsibilities at Halifax with both U.S. and Canada.¹⁴¹

What are your thoughts on a continental perimeter? And is that something that we should be moving towards in terms of effecting efficiency in our continental trade?

AMB. WILSON: I think that both of our countries are collaborating and doing things in third countries.¹⁴² I will give you a couple of examples. We share information on container traffic, and we share that work, both of us do work in other countries to identify potential higher risk or high-risk containers that need further information on them.¹⁴³ But before we are going to be comfortable in seeing them arrive at one another of our ports, we have people in United States ports and the United States people in Canadian ports again to be the North American side of that work that is done in other countries.¹⁴⁴

We have what we call migration integrity officers, and these are people who work at our ports of embarkation for air traffic, passenger traffic coming to Canada.¹⁴⁵ So what we want to do with that is ensure that people who get

¹⁴⁰ See generally Robert A. Pastor, *North America's Second Decade*, FOREIGN AFFAIRS, Jan.-Feb. 2004, <http://www.foreignaffairs.org/20040101faessay83112-p10/robert-a-pastor/north-america-s-second-decade.html> (describing the lessons North America can learn from the European experience with integration).

¹⁴¹ See generally Port of Halifax, <http://www.portofhalifax.ca/english/about-us/who-we-are/index.html> (last visited Sept. 30, 2008) (general information about the Port of Halifax).

¹⁴² See generally Embassy Washington: Container Security, <http://geo.international.gc.ca/can-am/washington/defence/containersecurity-en.asp> (last visited Oct. 1, 2008) (explaining that the U.S. and Canadian customs and border security officials work side by side).

¹⁴³ See *id.*

¹⁴⁴ See *id.*

¹⁴⁵ See Embassy Washington: Migration Integrity Officers,

on our planes have the proper documentation that do not appear to be a security risk and where we are quite comfortable with having them come to our country.¹⁴⁶ We have turned away in the thousands of people over the past ten years or so, like about 20,000 or 30,000 people.¹⁴⁷ So it is effective in identifying people who we do not want to see come to our country.

So there are ways that we can work together. One area that we are looking at right now quite frankly is general aviation. If we can work together on identifying general aviation problems before they leave Europe or Asia on their way to North America, then we can have a much easier flow of general aviation traffic north-south. And I think that this type of traffic is going to become more and more apparent as time goes by. So that is another area.

A final area that I would mention which makes an awful lot of sense to me is how we deal with pandemics. How we would deal with a SARS, with an avian flu, something like that. If we can have common standards of preparedness but also common standards of identification of the problem before it gets to our borders or as it gets to our coast lines, then again, we can help each other.¹⁴⁸ Birds do not understand what a border is down there, and so we do not know where that bird is going to come. It could come to Canada, or it could come to the United States. Again, the more we can understand and collaborate in third countries, the more we are helping each other.

UNIDENTIFIED SPEAKER: Ambassador Wilson, just a few years ago Americans traveling to Canada were able to exchange their dollars, \$1 for an excess of a \$1.30 Canadian dollars.¹⁴⁹ Currently, that has completely changed. American dollar gets less than one Canadian dollar.¹⁵⁰ You have had a tremendous experience before you became an ambassador in the financial world. I am very curious as to what your understanding is as to why this has occurred. Is the American economy that weak, or is the Canadian economy that strong, or is it a combination of both of those?

<http://geo.international.gc.ca/can-am/washington/defence/mioposition-en.asp> (last visited Oct. 1, 2008) (explaining that Canada deploys officers abroad to stop improperly documented travelers before they enter Canada).

¹⁴⁶ See *id.*

¹⁴⁷ See *id.* (reporting that more than 40,000 persons who appeared to be inadmissible to Canada were intercepted by the Migration Integrity Officers in the past six years).

¹⁴⁸ See generally Global Pandemic Influenza Readiness, <http://www.hc-sc.gc.ca/ahc-asc/intactiv/pandem-flu/questionsbk1-eng.php> (last visited Oct. 6, 2008) (explaining that the cornerstone of Canada's preparedness plan for pandemic influenza is to collaborate at an international level).

¹⁴⁹ See FXHistory – Historical Currency Exchange Rates, <http://www.oanda.com/convert/fxhistory> (last visited Oct. 6, 2008).

¹⁵⁰ See Bank of Canada, <http://www.bank-banque-canada.ca/en/rates/exchange.html> (last visited Oct. 6, 2008) (current U.S. Dollar to Canadian Dollar exchange rates).

AMB. WILSON: I think it is a combination, but you are quite right. Let me put the numbers in another way. —You could buy one of our dollars for about 62 or \$0.63 in 2002, and now it is either side of a hundred.¹⁵¹ It got up to 108, 109 for a very brief period last year.¹⁵²

I think there are a number of causes for that. One, I think the sum of the things that I mentioned in my remarks about having a strong fiscal position, a strong inflation picture in this country, and I think the other very important factor has been the strength of the commodity markets, not just oil and gas, but copper, lead, zinc, nickel.¹⁵³ These have been tremendously strong.¹⁵⁴

And while we do not have an economy that I would describe as a resource economy, we have, to say it another way, you produce about the same proportion of your economy and natural resources as we do, but the difference is that you use all of your resources. You consume them all internally for the most part.¹⁵⁵ We will export quite a few.¹⁵⁶ About 35 percent of our exports are in resource products.¹⁵⁷ That has a significant impact on the value of our dollar.¹⁵⁸ There are economists in this room that will correct me I am sure if I state this inappropriately, but if you look at the price index for resource-based products, there is a very close correlation between that price index and the level of Canadian dollar.¹⁵⁹

So that combination of things I think would give you a large part of the reason, and yet you cannot deny the fact that the United States dollar has been under pressure relative to other currencies.¹⁶⁰ We are not alone in seeing that relationship changed in the past few years. So that is the other side of the equation.

MR. CARMODY: Mr. Ambassador, my name is Chios Carmody, and I teach at the University of Western Ontario in London, Ontario.

¹⁵¹ See FXHistory – Historical Currency Exchange Rates, *supra* note 153.

¹⁵² See *id.*

¹⁵³ See *TSX Edges Upward, New York Blue Chips Lose a Little Ground*, TORONTO STAR, Feb. 16, 2008, <http://www.thestar.com/Business/article/304093> (reporting that there has been a continued strength in the commodities sectors).

¹⁵⁴ See *id.* (“Things like copper and aluminum, as well as agricultural commodities, have been going absolutely crazy here.”).

¹⁵⁵ See generally CENTRAL INTELLIGENCE AGENCY, THE CIA WORLD FACTBOOK 2008 (2008) (export details of all countries).

¹⁵⁶ Statistics Canada, Merchandise Trade of Canada, <http://www40.statcan.ca/l01/cst01/trad45a.htm> (last visited Oct. 8, 2008) (Canada’s exports data).

¹⁵⁷ *Id.* (listing Canada’s export of resources products to be approximately 40% of its total exports).

¹⁵⁸ See MICHAEL HOLDEN, EXPLAINING THE RISE IN THE CANADIAN DOLLAR 5 (2007), available at <http://www.parl.gc.ca/information/library/PRBpubs/prb0326-e.pdf>.

¹⁵⁹ See *id.*

¹⁶⁰ See *id.* at 12 (noting that the market for US dollar assets has been weakening).

A lot of your speech to us today was about the need for openness, the fact that we have traditionally had a strong relationship with the United States, and the fact that we hope to have an open relationship with the United States in the future.

Now just on Tuesday of this week in Ottawa, our Finance Minister announced that he was prepared to block the sale of significant Canadian assets to an American purchaser.¹⁶¹ And while these decisions are occasionally made, although rarely in Canada's case have they been made in this fashion, I am curious to know what reaction you have been receiving as our principle representative in the United States to this particular designation.¹⁶²

AMB. WILSON: You are the first person who has asked me a question on that particular issue, so the simple answer to your question is I have not received a lot of attention from Americans on this particular issue.

I think it is important to understand that there is a process, and that process is underway. The minister, it was not the Minister of Finance, but it was the Minister of Industry,-- has sent a letter to the American company wishing to acquire the asset, and then the American company has 30 days to come back with a response to the concerns that are expressed to the company on the issue.¹⁶³ A meeting was held earlier this week, that between the U.S. company and the minister's officials, and we will see what happens as a result of the discussions that they had early in the week.¹⁶⁴

So I think it is a little premature to draw specific conclusions. Clearly the Minister has expressed some significant concerns, but we will see what happens as his process works its way through.

UNIDENTIFIED SPEAKER: Mr. Ambassador, thank you so much for coming today. Being involved in bulk commodity trade throughout North America, when we talk about a thickening border, our concern as an industry overall is repetitive programs, and maybe you can speak towards that specifically with regards to ACI, AMS, now we are getting into the TWIC program in the United States and a possible counterpart in Canada.¹⁶⁵ Is there

¹⁶¹ See generally *Federal Government Blocks Sale of MDA Space Division*, CBC NEWS, Apr. 10, 2008, <http://www.cbc.ca/money/story/2008/04/10/mdablock.html> (reporting that Canadian government has blocked the sale of the space division of a Vancouver-based firm to a U.S. firm).

¹⁶² See *id.* ("In the 23-year history of the Investment Canada Act, the federal government has never blocked a foreign takeover because of a failure of the 'net benefit' test.").

¹⁶³ See *id.*

¹⁶⁴ See *id.*

¹⁶⁵ See generally Transport Security Administration, http://www.tsa.gov/what_we_do/layers/twic/program_info.shtm (last visited Oct. 9, 2008) (information about TWIC).

any collaborative work going on between the two countries to maybe streamline this process or create one standard?

AMB. WILSON: I cannot speak specifically to the programs that you talk about, but what we try to do working together is to have programs that are comparable in their impacts going south or going north. That is a broad objective. Sometimes there are differences in objectives that a U.S. program may be different than a Canadian program.¹⁶⁶ There are some cases where one country may not have a program for a variety of reasons.¹⁶⁷

But just to step back from your question, the greater degree of commonality and simplicity in the way we design the documentation that is needed to go to cross the borders, the better it is going to be.

I think that we have to realize in our countries the significance of the border, but not as a line itself, but as to how it affects other parts of our ways of life.¹⁶⁸ We have been talking today more in the context of trade, sometimes in security, but there are so many cross-border issues that we are facing, whether it is cross-border water issues, cross-border climate change, other environmental issues, travel, the whole question of pandemics.¹⁶⁹

There are so many of these issues that are affected by the border. We have to develop an approach to managing the border that is going to recognize the basic relationship between our two countries, which is a wonderful relationship. It is a very solid relationship, it was built over many, many years, and we cannot let how we deal with that line to undermine that relationship.¹⁷⁰ And that is the basic message that I want to leave with you today.

And I will give you a broader comment on this to why it is important. My mother was born in the United States. My mother-in-law was born in the United States. We had someone say earlier that they were born in the United States. We had the gentleman saying that he worked for a Canadian company. There are so many common elements of how we as people talk to each other, and I think one of the great things about the relationship is that we have an understanding, we have an instinctive feel of what people on the other side of the border are because we do a lot of things together. We travel

¹⁶⁶ See generally Alice Woolley, *Legitimizing Public Policy*, 58 U. TORONTO L.J. 153, 153-54 (2008) (discussing that many Canadian programs are created as a result of public policy concerns).

¹⁶⁷ *Id.* (United States and Canada have individual policy concerns as well).

¹⁶⁸ See generally Health Canada, Canada-United States Border Air Quality Strategy, http://www.hc-sc.gc.ca/ewh-semt/air/out-ext/great_lakes-grands_lacs-eng.php (last visited Oct. 9, 2008) (explaining that Canada and the United States are working together to tackle cross-border air pollution problems).

¹⁶⁹ See *id.*

¹⁷⁰ See U.S. Department of State, Background Note: Canada, *supra* note 26 (“The relationship between the United States and Canada is the closest and most extensive in the world.”).

north and south, 700,000 come down, and 500,000 go north from the state of Ohio.¹⁷¹

So there is all this interaction, and that leads to better understanding. And the more we have a better understanding, the more we are going to be able to solve any of the problems that we have between us. And that is one of the fundamental bases for our concern about the border is you put too many things along the border, and we undermine that capacity to meet, talk to each other, understand each other, and ultimately work well together as very good neighbors.

UNIDENTIFIED SPEAKER: Mr. Ambassador, has Canadian industry been able to exploit the tar sands in Western Canada?

AMB. WILSON: Well, we call the tar sands in Western Canada oil sands now.¹⁷² The oil sands are a huge resource for Canada.¹⁷³ The number of the reserves there that that can be exploited is almost as great as the oil reserves of Saudi Arabia.¹⁷⁴

Put it into some context. We are producing now at a rate of 1.1 million barrels a day.¹⁷⁵ Projects in line, and projects that are well advanced of the drawing board, we will get that up to three, three-and-a-half million barrels a day.¹⁷⁶ So we are now getting into a level of importance that is quite significant.

An awful lot of money has been spent on technology to get us to the point where we are today.¹⁷⁷ There is still a good deal more money being spent. We are moving to a an open-pit mining process to something that is more akin to a conventional drilling, what the oil people call the in-situ process when you stick the pipe down into the ground, pump heavy, very hot steam down and bring it up as a commodity that can be worked with to produce oil.¹⁷⁸

A challenge that we face today is the challenge of climate change.¹⁷⁹ To heat that water going into the ground or the water that is now used in the

¹⁷¹ See Embassy Washington, 2007 Ohio Trade Fact Sheets, *supra* note 25 (reporting that Canadians made more than 507,600 visits to Ohio, and Ohio residents made more than 706,600 visits to Canada).

¹⁷² See 60 Minutes: *The Oil Sands of Alberta* (CBS television broadcast Jan. 22, 2006).

¹⁷³ See *id.*

¹⁷⁴ See *id.* (reporting that there are 175 billion barrels of proven oil reserves in Alberta compared to 260 billion barrels in Saudi Arabia).

¹⁷⁵ See *id.*

¹⁷⁶ See *id.* (predicting the oil production to triple within a decade).

¹⁷⁷ See *id.* (explaining that prospectors lost millions of dollars trying to squeeze the oil out of the sand).

¹⁷⁸ See Oil Shale and Tar Sands Programmatic EIS, <http://ostseis.anl.gov/guide/tarsands/index.cfm> (last visited Oct. 9, 2008).

¹⁷⁹ See *id.* (noting that the process has an impact on global warming).

process requires a lot of fuel.¹⁸⁰ At this point it is natural gas.¹⁸¹ We are looking at other ways of heating that water, making it steam.¹⁸² But at this point some of the environmentalists in the United States refer to this oil as being dirty oil because it is emitting more greenhouse gases.¹⁸³ We recognize that. We have reduced the intensity of greenhouse gas emissions.¹⁸⁴ We have reduced them by, I think, 27 percent in the last 10 or 15 years.¹⁸⁵ And as a result of announcements made by the government about a month or so ago, there are going to be very strict limitations on the amount of CO2 emissions that will be allowed with any oil sands project or any coal-based utility fuels that will be in process after 2012.¹⁸⁶

So we are taking this dirty oil challenge seriously. A lot of money is going into addressing the issue, but it will continue to be 173 billion barrels of oil reserves down there.¹⁸⁷ That will be around for quite a long time as that production wraps up from where it is today.

MR. CAIRNS: Mr. Ambassador, I will spot you one on ancestry. My mother was born in the great province of Nova Scotia.

AMB. WILSON: Good.

MR. CAIRNS: My question relates to the Great Lakes Water Compact.¹⁸⁸ I think it is hung up in the Ohio legislature for reasons that even real estate lawyers do not quite understand.¹⁸⁹ But I wonder if you would comment on the importance of that compact to both Canada and the United States?

AMB. WILSON: Well, I think it is terribly important for both of our countries.¹⁹⁰ My understanding is this is the last state to be able to approve the compact.¹⁹¹ We have discussed it in my visit here, discussed the importance of it for Canada. But for the Great Lakes, I think it is very

¹⁸⁰ See *id.* (explaining that the process requires large amounts of energy).

¹⁸¹ See *generally id.* (explaining that the process requires large amounts of energy).

¹⁸² See *generally id.* (current process is expensive and detrimental to the environment).

¹⁸³ See *60 Minutes: The Oil Sands of Alberta*, *supra* note 176.

¹⁸⁴ See *generally id.* (reporting that oil companies are saying they will reduce greenhouse gasses).

¹⁸⁵ See *generally id.* (reporting that by Canadian law, the oil companies are required to refill old mines and plant new trees).

¹⁸⁶ See *generally* Shankar Vedantam, *Kyoto Treaty Takes Effect Today*, WASH. POST, Feb. 15, 2005, at A04 (reporting that under the Kyoto Treaty, Canada has committed to reduce its greenhouse gas emissions to 8 percent below its 1990 levels).

¹⁸⁷ See *60 Minutes: The Oil Sands of Alberta*, *supra* note 176 (reporting that there are 175 billion barrels of proven oil reserves in Alberta).

¹⁸⁸ See *generally* John McCarthy, *Ohio Agreement to Join Great Lakes Water Plan Stalls Again*, ASSOCIATED PRESS, May 30, 2008, http://www.mlive.com/business/index.ssf/2008/05/ohio_agreement_to_join_great_l.html (reporting that Ohio is reluctant to join the Great Lakes Water Compact).

¹⁸⁹ See *id.*

¹⁹⁰ *Id.* (“The Great Lakes Compact is crucial to protect the lakes.”).

¹⁹¹ See *id.* (describing Ohio as the “last roadblock” to the Great Lakes Compact).

important as we see some of the challenges, environmental challenges that we have in the Great Lakes, the water levels being one in particular.¹⁹²

So it is a very important agreement, and we would certainly encourage the legislature here to approve it. I think there are eight states and two provinces that are subject to this agreement, and seven states and two provinces have spoken, and we hope that Ohio will speak as well.¹⁹³

UNIDENTIFIED SPEAKER: Mr. Ambassador, just wondering what your thoughts are on our current Democratic Presidential candidates' comments about modifying or altering the NAFTA agreement.¹⁹⁴

AMB. WILSON: I think it is clear from my remarks today that we feel that the North America Free Trade Agreement has been very successful for Canada.¹⁹⁵ We think it has been successful for all three countries, and we recognize that it is a controversial issue in the United States.¹⁹⁶ Obviously it was a very important issue in the primaries, the voting that you had here about a month or so ago.

We want to see what the final outcome is, and we watch with great interest to be quite frank with you because it has been such a success for our country. Trade among the three countries has gone from \$300 billion to \$900 billion in 13 years.¹⁹⁷ So it is a three-way investment. It has increased about the same order and magnitude. So we have to treat this agreement with T.L.C.

MS. FRIEDMAN: Today the City Club of Cleveland will conclude with the Honorable Michael Wilson, Canadian Ambassador of the United States. Thank you, Mr. Ambassador. Thank you, ladies and gentlemen. We are now adjourned.

(Session concluded.)

¹⁹² See *id.* (explaining that the Senate feels the protections are crucial to try to keep arid states from siphoning water from the Great Lakes).

¹⁹³ See *id.* (reporting that Ohio would be the last state to join seven other states and two Canadian provinces).

¹⁹⁴ See generally *Canada Must Defend NAFTA*, NAT'L POST (Canada), Mar. 29, 2008, <http://www.nationalpost.com/opinion/story.html?id=407546> (reporting that Hillary Clinton and Barack Obama have made NAFTA an issue in their democratic nomination race).

¹⁹⁵ See *id.* (finding that almost two-thirds of Canada's economic growth since the mid-1990s could be traced to NAFTA).

¹⁹⁶ *Id.* (reporting that under NAFTA, Canada's exports to the United States have nearly tripled and the United States' exports to Canada have almost doubled).

¹⁹⁷ See *Canada-US Trade Relationship* – U.S. Commercial Service Harrisburg, *supra* note 34 (finding that bilateral trade between Canada and the United States has nearly tripled during the past twelve years).