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Canada-United States Supply Chain in the Era of Global Economic Competitiveness

P. Kelly Tompkins

Garland Chow

Paul Vandevert

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MR. TOMPKINS: Good morning. My name is Kelly Tompkins. I am an Executive Vice President of RPM International. And sitting next to my colleague from Ford, I feel like a really small company with a mere $3.5 billion in sales. That said, it is my pleasure to chair this opening panel. I can assure you that the expertise lies to my left and right; indeed, I am merely the appetizer for the main course, which my two colleagues will serve us in a few minutes.

Let me also thank Henry King for his kind, if not persuasive invitation. Those of you who have known Henry, he is very capable of twisting arms, although he did not need to do that in this case. Henry, thank you, it is a pleasure to be here.

DR. KING: Thank you.

MR. TOMPKINS: Our topic today is U.S.-Canada Supply Chain Logistics. I am assuming that most everyone in the room is not an expert in supply chain logistics. Fortunately, our opening speaker, Professor Chow, will give us the big picture view of supply chain logistics to frame our discussion.

Following Professor Chow, Paul Vandevert will take us a little deeper into the automotive industry, in particular Ford, to give us a real-life example of the tension between supply chain logistics, economic considerations, and border security.

I was struck by some of the economic statistics between the U.S. and Canada which Valerie mentioned as she was heading off to China this weekend; that was shocking to me. Not only did Canada import $248 billion from the U.S. in '07, but the province of Ontario buys more from the U.S. than does China at about $160 billion. So we are talking about significant economic stakes.

The Ambassador Bridge, which we are all familiar with, which connects Windsor and Detroit, exports roughly that which is equal to the U.S. exports to China across that one bridge alone. From a two-way trade standpoint, we are talking about nearly $2 billion a day between our two countries, $1 million a minute, a 400,000 people per day crossing on average. Clearly we are talking about significant economic relationships and economic implications.

As Sam Palmisano, the chairman of IBM, remarked recently, we are in a globally-connected world, and when we are globally connected, work moves to the places where it is done best, most efficiently, highest quality, and that is the essence of the global supply chain.

Perhaps as a working definition—and I can assure you Professor Chow will give us a more refined explanation of global supply chains—we refer to it simply getting the right product at the right place at the right time at the right price. That is really the essence of the global supply chain.

As I mentioned, Paul will take us into the automotive industry where the assembly of one car can involve three, four, five border crossings. Producing each part in the most efficient location improves productivity, lowers costs, increases profits and that is the essence of today's global supply chain manager's challenge. Inefficiency, whether it is due to a lagging

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4 See generally Stephanie Fitch & Joann Muller, The Troll Under The Bridge, Forbes, at 134 (Nov. 15, 2004).
5 See Imports, exports and trade balance of goods on a balance-of-payments basis, by country or country grouping, supra note 3.
7 See generally William Hoffman, Global supply chain? What global supply chain?; People talk about them, but BDP study says they're still relatively rare, J. Com., June 4, 2007, at 42.
infrastructure or well-intended but improperly-scoped security, is the key to the competitiveness of an integrated North American economy vis-a-vis Asia and Europe among other regions of the world.\textsuperscript{10}

So among our questions today are, is the border thickening, and if so, what are the trade implications? Are well-intended security rules and regulations having unintended consequences to our collective competitiveness around the world from the perspective of global supply chain considerations? Do our regulators and policymakers really appreciate the full economic impact of delays and just-in-time delivery systems on U.S. and Canadian suppliers, customers, OEM's, and ultimately consumers? Hopefully during the course of the next hour, we can address some of these and other questions, and I look forward to active participation by the audience.

So with that, let me introduce our first speaker, Professor Garland Chow, an Associate Professor of Logistics and Supply Chain Management at the University of British Columbia in Vancouver.\textsuperscript{11} He teaches and writes in the field of supply chain logistics, freight transport pricing, an internationally known authority, and has done extensive research on the role of Canadian firms in the global supply chain, the relevance of Canadian labor standards, the long-distance truckers, modeling of supply chains, utilizing the Asia-Pacific Gateway, and I could go on and on.\textsuperscript{12} Suffice it to say, we have great expertise on this topic. So with that, I will turn it over to Garland and let him frame our global supply chain logistical challenge for us. Garland.

\begin{flushright}
\textsuperscript{10} See generally id.
\textsuperscript{11} Chow, Garland, Sauder School of Business, available at www.sauder.ubc.ca/AM/Template.cfm?Section=Faculty_Research_Directory_alphabetical&T emplate=/CM/ContentDisplay.cfm&ContentID=6665 (last visited on Oct. 9, 2008).
\textsuperscript{12} Id.
\end{flushright}
Garland Chow

DR. CHOW: Thank you. Actually last night, Dan, you mentioned that Cleveland has the Rock and Roll Hall of Fame. Well, you know, that got me thinking. It got me thinking about when I was in the University, I was thinking about The Rolling Stones. Now, at my age, and I think some of you all, we are thinking about the kidney stones. You know, back in those days some of you folks were getting in trouble with the authorities because you had long hair. Now you are longing for hair. And did not we all anticipate those big weekends where we empty a keg of beer? Now on weekends, instead of thinking about a keg, K-E-G, we are thinking about our EKG.

Well, not only have we changed, but also the geoeconomic landscape that we live in has changed. You know, for practically anywhere from 20 to 30 years after World War II and the Korean Conflict, both U.S. and Canada experienced a significant period of economic growth with much of that value-added activity performed right here in North America. This is enabled in part by the world's best transportation system because in the United States, we developed the national interstate highway system, and in Canada, in parallel, the Trans-Canada Highway, supplemented by the railroad. In cooperation with the railroads, this meant we had good internal transportation to move goods around so that, yes, where work was best done in North America, or at least in United States or in Canada, it was done there.

*Garland Chow is Associate Professor in the Operations and Logistics Division and Director of the Bureau of Intelligent Transportation Systems and Freight Security (BITSAFS) in the Sauder School of Business at the University of British Columbia. Dr. Chow actively teaches and writes in the fields of supply chain, business logistics and freight transport planning, management and policy. He is an internationally known authority on motor carrier transportation and author of over 200 articles and reports. Recent research includes: the role of Canadian firms in global supply chains, the relevance of Canada's labor standards to long distance truck drivers, modeling the supply chains utilizing the Asia Pacific gateway and the modeling of total logistics cost performance.

16 See generally id.
Now as Paul will bring out more detail, free trade between the U.S. and Canada was pioneered by the auto industry in the 1960's, and with the FTA and NAFTA agreements in 1989 and 1994 respectively, integrated supply chains further developed within North America primarily through the reduction in trade barriers.\(^1\) Since then, globalization has taken place.\(^8\) I am not going to thrill you with a bunch of numbers because you are all well aware of that the numbers. Much of the world's low-cost manufacturing has migrated to Asia, spurring the impressive growth of not only Asian countries but trade between Asia and developed countries such as North America, Canada, United States.\(^9\)

This is all very interesting, but globalization is more than just offshore sourcing to low-cost manufacturing companies.\(^10\) The rise of global supply chains in which imports and exports are exchanged across borders as part of the production and marketing processing of a single company or a network of companies means that firms should not be asking where should we create an entire product or service. No. What firms should be asking, and what they are asking, is where is the best place to locate each specific activity? And that is the essence of the supply chain.\(^11\) The supply chain, as Kelly mentioned, is getting the right product to the right place at the right time in the right quantity and in the right condition.\(^12\) When a consumer says I want a product, then someone has to design it. Where is it going to be designed? It can be designed anyplace in the world.\(^3\) That product has to be developed and engineered. Where is that going to happen? It can be done anyplace in the world.\(^4\)

The raw materials have to be sourced. Where is it going to be sourced? It can come from many places in the world.\(^5\) And components need to be sourced. Where are they going to come from? They can come from many different places in the world.\(^6\) Lots of products today go through several


\(^{19}\) See generally Louis Kraar, Asia's Rising Export Powers in the 1990s, Fortune, at 23 (Fall 1989).


\(^{21}\) See generally Hoffman, supra note 7.

\(^{22}\) See id.


\(^{24}\) See generally id.

\(^{25}\) See generally id.

\(^{26}\) See generally id.
steps in manufacturing. You manufacture an intermediate product which then is transformed again and again until it gets the final manufacturing or to the OEM for final assembly. Where is it going to be done? It can be done at many different places. And finally there is distribution. Where do you locate your distribution centers? Where do you locate your stocks of finished goods? Typically they are close to the customer.

Let us look at an example. Now, some of you may have heard about the Boeing situation. And as complicated as it looks, Boeing will assemble, they will assemble. They conceptualize by the way what this product's going to look like, a 787. They are going to assemble it in Seattle, but where do all the components come from? It is a joint effort where they have source, the design and engineering, and the production of many different parts all over the world. If you look at it, you are going to see the United States, you are going to see Italy, you are going to see France, you are going to see Australia, and you are going to see Sweden. And right down there on the bottom, you will see wind body faring landing gear doors from Boeing Canada.

And I know that right in British Columbia we have a company called Avcorp. While they are not supplying parts and components to this plane, they do supply significant assemblies to Boeing for other aircraft.

Here is another good example. Bombardier Transportation. Bombardier recently signed a contract to provide 88 advanced rapid transit cars to Malaysia in Kuala Lumpur. In this case, they have partnered with Hartasuma, or HSB. They are partnering with a Malaysian company.

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29 See generally Calleja, supra note 23.
30 See generally id.
31 Id.
32 Id.
33 Id.
34 Id.
35 Id.
36 Id.
37 See generally Avcorp confirms deal to supply CJ4 Cessna, THE TORONTO STAR, Sept. 11, 2008, at B02.
38 Id.
40 Id.
41 Id.
But wait a minute. How is this product produced, and where? Well, first of all, the components are sourced globally. Some from United States, some from Canada, and much from other parts of the world. All of those are going to converge in Canada where in Montreal Bombardier will in fact manufacture these cars. They are going to manufacture it just like Ikea. It is going to be knocked down. Where does it go after that? It goes to Malaysia where the partner, HSB, will actually assemble a final product and customize it so that it meets the needs of the citizens of Kuala Lumpur.

Illustrating Canadian participation in global supply chains, you see that with respect to the large companies in Canada, they are acting globally, where more than almost 80 percent of those companies in some way participate in global supply chain by sourcing research, raw materials, using global suppliers, selling to global suppliers, and so on. Of course as companies decrease in size, they have less exposure. They also have less assets and less ability to go offshore. So as you get to smaller companies as illustrated by the light blue and the red, you see less participation in those global supply chains. I am sure that the same pattern exists in the United States. So with this globalization, however, nothing has really changed between Canada and the U.S. Today, as has been the case for decades, Canada and U.S. trade, which totals in 2007 $562 billion, is number one. We are the number one traders in the United States, and for Canada, the U.S. is the number one trade partner.

42 Id.
43 See generally id.
44 See generally id.
45 See generally id.
47 See generally Bombardier to Upgrade Kuala Lumpur Lines, supra note 39.
49 Id.
51 Id.
52 See generally id.
53 See generally id.
54 See generally Imports, exports and trade balance of goods on a balance-of-payments basis, by country or country grouping, supra note 3.
55 See generally id.
56 See generally Top Trading Partners - Total Trade, Exports, Imports, U.S. Census Bu-
U.S. exports to Canada is $249 billion.\textsuperscript{57} That is number one for the U.S., and it is number one for Canada.\textsuperscript{58} Canada exports to the U.S., in other words imports into the U.S., $313 billion.\textsuperscript{59} Yes, it is number two for the U.S.\textsuperscript{60} China is number one to bringing in more products from China than they are from Canada, but it is, again, number one for Canada.\textsuperscript{61} Now, Canada's trade with the U.S. is a much larger percentage of GDP than it is for the U.S.\textsuperscript{62} Therefore, Canada as a trading nation has a greater dependency, or has a bigger stake in this.\textsuperscript{63}

In fact, here is the saying that is so true: If trade is a foundation on which Canada's economy is built, then trade with the United States is its cornerstone.\textsuperscript{64}

But what we see here is the following. First of all, let us do a little thinking here as to what these numbers mean. Entry, middle, and end. Entry level exports or imports, they are usually raw materials.\textsuperscript{65} They are goods that go into the production process of whoever is buying them. And they come in right at the beginning of that production process.

On the other hand, middle entry products, those are products that are going into the process of production to the buyer, but they have already been processed.\textsuperscript{66} In other words, more value has been added to this product.

And finally, if it is an end product, then it is a finished good.\textsuperscript{67} If it is an end product and a country sells it to Canada, then for all practical purposes, we are not doing anything to it.\textsuperscript{68} We are just reselling it. We are retailing it or wholesaling it.

\textsuperscript{57} Id.
\textsuperscript{58} Id.
\textsuperscript{59} Id.
\textsuperscript{60} Id.
\textsuperscript{61} Id.
\textsuperscript{62} See generally id.
\textsuperscript{63} See generally Paul Wonnacott & Ronald Wonnacott, supra note 17.
\textsuperscript{64} See generally Imports, exports and trade balance of goods on a balance-of-payments basis, by country or country grouping, supra note 3.
\textsuperscript{66} See generally id.
\textsuperscript{67} See generally id.
So what you see here is that since NAFTA there has been growth in all three of these, but the greater growth has been in the middle and end product areas. In other words, it signifies an integration between the Canadian supply chains and the U.S. supply chains, or better yet, that the supply chains of the U.S. and Canada are integrated.

To add to that, let us look at the products that are imported into Canada from the United States. Notice that the entry level, in other words, raw materials coming from the United States to Canada is very low. It was low before, and it has hardly grown since NAFTA's started. On the other hand look at that middle one. The middle entry products are not only very large, but very significant in terms of growth as is with the end products.

And what does this all represent? It means that the Canada-U.S. economies are highly integrated together. In fact, they have discovered in this research that 70 percent of the goods moving back and forth are in the same product category. In other words, these are products that are in the same industry going as an input into the production process. They are coming the other direction to the other country. That represents an integrated supply chain between players and stakeholders in both countries.

Let me give you a few examples of this. Here is the North American beef industry. When you look at the notes when, you will see that there is a tremendous amount of trade between Canada and the U.S. with regards to beef, whether it be the actual steers, whether it be fresh or frozen meet, it is going back and forth, indicating an integrated economy. Now of course this is a market though that has been impacted by a number of factors such as BSE or what is called Mad Cow Disease. So that hurt the situation badly. But the United States had such a large demand for this product they have overcome this problem and started importing not only from the Canada, but also from Mexico and Uruguay. Canada is not the only source. But on the other hand, the United States is not the only market.

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69 See generally 48 C.F.R. Parts 1, et al.
71 See generally id.
72 See generally id.
73 See generally id.
74 See generally O’Connor, supra note 70.
75 See Goldfarb, supra 48.
76 See id.
77 See id.
79 Id.
80 Id.
81 See Greg Doud and Julie McWright, U.S. Beef Imports through August Continue at...
Another example parallel to this is the swine and pork industry. And I was very fortunate to hear one of the participants at this conference actually elaborate on what is happening here. This is the perfect example of specialization, the perfect example of where one country can do something better than the other. A lot of the pork export from Canada to the U.S. is what is called weanlings.

In other words, Canada, and in particular, Manitoba, is very good at the sow industry where they actually birth the young pigs, get them to a certain age, and then export them to the United States where they are raised and where they are slaughtered and then processed. So here is a highly integrated industry in which the specialization of the first year of these hogs and pigs are in Canada, then they are exported to the U.S. for the rest of their life.

However, there are barriers. Those barriers are not necessarily transportation. In this case there are of course competitors in the United States. They are seeking protectionist-type of regulations. And one particular one which apparently is being considered right now is the requirement for the animal identification so you can track this animal all the way back. And apparently this is going to result in some extra costs and some barriers that would make it very difficult to freely move the young weanlings from Canada to the United States. Here is another example. This is actually a company in British Columbia. This company, Alco Ventures, has its main plant in Langley, British Columbia. But it also has a plant in

See id.
See id.
See generally Grier, supra note 85.
See generally id.
See generally id.
See generally United States Department of Agriculture, supra note 87.
See generally National Pork Producers Council supra note 90.
Cambridge, Ontario and a plant in Bakersfield, California.\textsuperscript{95} What do they do? They make windows and aluminum rails.\textsuperscript{96} Now, you might think, well, is that a pretty standard product? Well, the answer is no. These rails can be shaped in many different ways, they can be customized for the customers, they need to be in certain lengths so that there is a lot of customization done and quality is important.\textsuperscript{97}

So this company has three plants in North America to serve customers in North America.\textsuperscript{98} But wait a minute, where do they get their supplies? Well, the first source of supplies is a supplier in Port Coquitlam which is not too far from Langley, so you would consider them an onshore local supplier.\textsuperscript{99} So this supplier by the way is ensuring that the Langley plant, the Bakersfield plant, and the Cambridge, Ontario plant are getting the supplies that they need, such as the railings and the processed aluminum that they are going to use to develop the product.\textsuperscript{100}

But they also source from China.\textsuperscript{101} In fact, what they do is that they have this Port Coquitlam supplier actually manage the sourcing from China.\textsuperscript{102} Why is that the case? Because of a simple, simple principle of logistics. The bigger your shipment, the lower the cost.\textsuperscript{103} And so what they will do is they will have China ship all the way to Coquitlam, and in Coquitlam, they will consolidate the China supplies with the domestic supplies so you have one large load going to Cambridge and Bakersfield, and of course Langley.\textsuperscript{104} And then it will be from these sites they serve the customers.\textsuperscript{105}

But then we have another problem, and that is while the Cambridge, Ontario, is in the heart of the market.\textsuperscript{106} But on the other hand, the Langley, BC, plant is on the Canadian side of the border, it has to get across the border, and the uncertainty of serving customers on the other side of the border has caused them to set up a distribution center in Kent, Washington so that in order to serve the United States market, they will operate from the Kent, Washington distribution center to deliver products.\textsuperscript{107} Of course they will deliver from Cambridge, Ontario into the U.S. Midwest and Central

\textsuperscript{95} See generally id.  
\textsuperscript{96} See generally id.  
\textsuperscript{97} See generally id.  
\textsuperscript{98} See generally id.  
\textsuperscript{99} See generally id.  
\textsuperscript{100} See generally id.  
\textsuperscript{101} See generally id.  
\textsuperscript{102} See generally id.  
\textsuperscript{103} See generally id.  
\textsuperscript{104} See generally id.  
\textsuperscript{105} See generally id.  
\textsuperscript{107} See Alco Ventures, \textit{supra} note 94.
states, and of course the Bakersfield, California will take care of that very large single market in California.\(^{108}\)

So here is a supply chain that sources from domestically, internationally. It has plants in Canada and the United States, and it uses distribution centers to effectively source, manufacture, and deliver the products. That is supply chain management, sourcing, making, and delivering at as low a cost as possible, but still providing a service that the customer wants.

Now one last example. Fuji Film.\(^{109}\) I have a friend who ran the regional distribution center in Richmond, BC, which is no longer a distribution center.\(^{110}\) I asked him, what does the company bring into British Columbia? He said that it used to bring in container after container of product into British Columbia.\(^{111}\) Then they would leave British Columbia and go to Toronto to go to Toronto distribution center.\(^{112}\) But that has all disappeared.\(^{113}\) Why did it disappear? Because North America is a North American market, not a Canadian market. And as a consequence, as there was enough growth in North America, Fuji Film set up its own plant in Greenwood, South Carolina.\(^{114}\) By setting up the plant, it now had the economies to scale, the long production runs to be economical, and therefore they stop moving products from Japan although they would bring some components, but now the production is in North America.\(^{115}\)

But for that plant to be economical, for the production runs to be very large, you had to combine the U.S. and the Canadian demand for the product.\(^{116}\) One problem with that, if the border at the border was so thick and the product could not get across, then they would either have to hold huge inventories on the Canadian side, or they would continue to send the products via Vancouver to Toronto.\(^{117}\) Luckily at least at that time, they felt that the border was not too thick. Yes. They consolidated everything, so you see the movement of products moving around.\(^{118}\)

\(^{108}\) See generally id.


\(^{110}\) See generally id.


\(^{112}\) See generally id.

\(^{113}\) See id.


\(^{115}\) See generally id.

\(^{116}\) See generally id.

\(^{117}\) See generally id.

\(^{118}\) See generally id.
There are a number of industries of course that are very important and affected by the border. One study indicated that the five largest supply chains moving between the U.S. and Canada are of course automobile manufacturing, the mineral market which is concentrated in Alberta moving to the United States, the machinery and equipment market which is concentrated in Ontario, and forest products which are concentrated actually in Quebec and Ontario as well as the West Coast.\textsuperscript{119} And each coast serves the respective ends of the country, and agriculture and fish where most the fish products of course come from, BC to California or the Maritimes to New England.\textsuperscript{120}

Now, we are leaving out one important supply chain though, and that is the international global supply chain.\textsuperscript{121} Many products can move to North America. And how do they get there from Eastern China via West Coast ports? And as you can see from the map, there are a number of West Coast entry points into North America.\textsuperscript{122}

As it turns out, Prince Albert and Vancouver save at least two days from going to Los Angeles or Oakland.\textsuperscript{123} The result of that is that what customers want is to minimize the total logistics cost of moving a product from Asia to North America. To do that, Canada has decided that we must develop the Asia-Pacific Gateway because it really is a gateway and corridor to North America with a natural advantage of being closest to Asia with regard to port-to-port movements.\textsuperscript{124} To do that, Canada is embarking on the Asia-Pacific Gateway and corridor initiative.\textsuperscript{125} It is one of three initiatives, two of which will be discussed later on. But it is one in which Canada has private investment, 21st century governance.\textsuperscript{126} They are moving on strategic infrastructure, changing policies, and trying to improve security and border efficiency.\textsuperscript{127} The result of that hopefully is to move products effectively

\textsuperscript{120} See generally id.
\textsuperscript{121} See generally id.
\textsuperscript{122} See Ron White, West Coast Ports have Sinking Feeling, L.A. Times, Mar. 5, 2008, at C-1.
\textsuperscript{124} Bill Dibenedetto, Building a Trade Gateway, Pacific Shipper, 2008 WL 18127345 (Sep. 22, 2008).
\textsuperscript{125} See id.
\textsuperscript{126} See id.
\textsuperscript{127} See id.
through Canada to get to not only Canadian consumers, but also U.S. consumers.\footnote{128}

So why do we talk all about this? It is because there is a challenge, and that challenge is a thickening of the border.\footnote{129} The fact is inefficiencies at the borders mean inefficiencies in the supply chain.\footnote{130} We have already seen enough studies to prove this, and I know that many of the later participants are going to discuss that as well.\footnote{131}

There is a Canada-U.S. Chamber of Commerce report just this year.\footnote{132} You can see the sense of frustration in that report.\footnote{133} 25 recommendations on change.\footnote{134} The conference board study of Canada in 2007, and the main point here is that there is a lack of predictability at the border, and there is a thickening in the border that will eventually erode Canada's attractiveness as a foreign investment location.\footnote{135} So can we afford that? Can we let that happen? Because the integrated supply chain that has developed because of NAFTA which has made North America competitive is being affected.\footnote{136} Can we afford for that to happen? Can we afford for North American production to lose access to the most efficient sources of raw materials and components? Can we afford for North American producers to lose access to markets that are the best for them?

So there are some issues. And many of these are being covered in this -- I know -- the seminar today and tomorrow. Yes, I have indicated that Canada has the various corridor programs like the Asia-Pacific Gateway and corridor program.\footnote{137} Canada is taking action because it has to because it needs efficient trade with the United States.\footnote{138} But how important is a seamless border to the United States?

Transport agencies can only do so much. How important is a seamless border to the Department of Homeland Security and CBSA? Infrastructure is a challenge, but what about the regulatory barriers which might be the root

\footnote{128}{See id.}
\footnote{129}{Barrie McKenna, Biden Favours Trade that is 'fair' not Free, GLOBE AND MAIL, Aug. 27, 2008 at B1.}
\footnote{130}{Hercules E. Haralambides and Maria P. Londono-Kent, Supply Chain Bottlenecks, 31 Int'l. J. Transp. Econ. 2, 171 (2004).}
\footnote{131}{See id.}
\footnote{133}{See generally id.}
\footnote{134}{See generally id.}
\footnote{135}{See id.}
\footnote{136}{See id.}
\footnote{137}{See Dibenedetto, supra note 124.}
\footnote{138}{See Egan, supra note 132.
problem? And institutional change is needed as the current institutions are ineffective, there needs to be a continental perspective. What has been achieved through trade liberalization is being undone with these thicker borders. There is an increasing need to address the complete supply chain from Asia and North America.

Thank you very much.

MR. TOMPKINS: Thanks, Garland.

Our next speaker is Paul Vandevert. Paul is a very experienced international trade attorney with Ford, began his career in private practice in New York City, and is a proud graduate of this institution. He reminded me that he usually sits in the back of the room, so Paul, welcome to the front of the room.

Paul is going to take us into a little bit of a deeper look into the automotive industry which I think will bring a real-life example to the broader policy issues that Garland so well articulated a few minutes ago. Paul, the floor is yours.

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140 See generally id.


142 See generally Canadian Logistics Industry, supra note 119.

MR. VANDEVERT: Thank you. As Kelly mentioned, I am a graduate of Case and, unfortunately, like many wayward children, I have come home with maybe some not-so-good news. I was telling Professor King when I came in this morning, my remarks for today coincidentally, but actually became the subject of a conference call I had with our Washington office and with our competitors in the auto industry on just this issue about the thickening of the borders and the measures that the various governments are taking, primarily the United States, and our concern about them.

To give you a bit of an overview, as Kelly mentioned I am the in-house customs and international trade attorney for Ford. We were founded in 1903, and we began doing business in Canada in 1904. So we have now been doing business across the border for 104 years.

Some of the more astute of you, those who study the auto industry and things like that may notice that I have got four brands up here, two just recently dropped off the map with our sales of Aston Martin, Jaguar, and Land Rover. But nonetheless, we have a collection of five globally-
recognized brands, and we are manufacturing vehicles on all six continents except for Antarctica, which will have to be the seventh.147 And we are selling our vehicles in all automotive markets.148 At times it is tough. We may not sell very many in every place, but we are selling in almost every country around the world.149

Also as was mentioned, the auto industry I think can take credit for, while it is certainly not the only industry, but has certainly been a pioneer, and I do not know that we can overestimate the benefits to our industry, and therefore to the national economies of Canada and the United States, of free trade across the border and open borders.150

The Automotive Products Trade Agreement of 1965, which would put the U.S. in a free trade environment with Canada now for over 40 years.151 And I am going to keep stressing the number of years that we have been doing business because there is a point to that. The APTA was a conditional free trade agreement.152 It allowed for free trade and parts and materials and then, consequently, vehicles only as long as the parts and material were used in the original production of motor vehicles.153

The industry both recognized and facilitated the further development of what was becoming a completely integrated production base in Canada and the United States while the automotive industry respects and treasures the political, social, economic, and cultural differences among the three North

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149 Id.
150 See generally David J. Andrea & Brett C. Smith, The Canada-U.S. Border: An Automotive Case Study I (Center for Automotive Res. 2002) (stating that the “[a]utomotive trade flowing between the two countries in 2000 was US$43.6 billion of vehicles and US$34.6 billion of automotive parts.”); See also id. at 3 (indicating that “[o]ver 97 percent of Canadian automotive exports are shipped to the United States and approximately 80 percent of all of Canada’s automotive imports originate in the United States. This level of integration [from NAFTA] . . . has broken down the political pressures of local production for local consumption and other allocation mechanisms that compromised the rationalization of production capacities in the most market-efficient manner”).
American countries. But for purposes of doing business, North America is a single operation.

Ford's purchasing is based in the United States, but when buyers source material and parts, they are sourcing for Canada, United States, and Mexico, and the only distinction is a plant code. And actually in my business, it can become a problem. It is like, wait, Canada is a border, we need to do some formalities. But it is important that as a business to remember that North America is where we do business. We do not do business in Canada and Mexico and the United States.

In 1989, it was broader to trade in all sectors, although NAFTA was an intervening event, with unconditionally duty-free trade of qualifying goods between Canada and the United States occurring in 1998. And then on NAFTA of which in one sense we are all familiar, but it is good to reflect for just a few minutes on the importance of it. I mean NAFTA, it is almost assumed. In fact, actually within the company when we are doing audit risks and things like that, I have had trouble. I personally think, and you will see why in a minute, the benefits to Ford alone of NAFTA are huge.

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158 See Panel Report, *Canada – Certain Measures Affecting the Automotive Industry*, WT/DS139/R at 3 (Feb. 11, 2000) (“Trade in automotive products was also affected by the Canada – United States Free Trade Agreement (CUSFTA), which entered into force 1 January 1989. The CUSFTA provided for the elimination of duties on automotive products by 1 January 1998, so long as the products qualified under CUSFTA origin rules”).

159 See generally Nejdet Delener, *Strategic Planning and Multinational Trading Blocs*, 48-52 (Greenwood Publishing Group, 1999) (discussing why industry groups, including automotive manufacturers, find trading blocs, such as NAFTA, beneficial).

160 See generally id at 52 (benefits of NAFTA to the automotive industry); See also Kelly, William P., *Restructuring under NAFTA: What are the considerations and how do we implement them? Has NAFTA Changed Patterns of Manufacturing Location, Distribution, and Market Penetration? – A U.S. Perspective*, 23 Can.-U.S. L.J., 497 (1997) (discussing the benefits of NAFTA to Ford).
I have actually argued that our NAFTA qualifying operations should be audited not because of the money we are laying out, but because of the money we are not laying out because if we are not qualifying right actually, we could owe a significant amount of money.\textsuperscript{161}

I wanted to put some actual numbers in front of you. And my hope is that as we go through the conference over the next two days, you will be able to put into some kind of perspective the remarks and issues and discussion that we will have. These numbers are just Ford. But consider that there are six major automotive manufacturers operating in North America: GM, Ford, Chrysler, Toyota, Nissan, Honda.\textsuperscript{162} Those are the big six. And we also have Mercedes, BMW.\textsuperscript{163} I am going to stumble on some of our very significant but smaller European competitors and transplants.\textsuperscript{164}

MR. HICKS: Kia.

MR. VANDEVERT: Kia? Kia is not yet manufacturing in North America I do not believe.\textsuperscript{165} And CAMI, correct.\textsuperscript{166} That is a GM and Suzuki joint venture.\textsuperscript{167}

But just for Ford, overall into the United States, and I apologize for not having numbers for Canada, Ford makes 200,000 separate import transactions called entries a year.\textsuperscript{168} We rank in the top five U.S. importers by entry volume.\textsuperscript{169} Of those 200,000, over 163,000 come from Canada alone.\textsuperscript{170}


\textsuperscript{166} See generally CAMI Automotive Inc., \textit{About CAMI}, available at http://www.cami.ca/aboutCami/aboutCami.shtml (last visited Nov. 5, 2008).

\textsuperscript{167} Id.

\textsuperscript{168} See generally Katherine Young, \textit{A NAFTA success story}, \textit{DALLAS MORNING NEWS}, Dec. 7, 2003, at D1 (discussing auto-industry trade under NAFTA).


\textsuperscript{170} See generally Young, supra note 168.
And then of those 163, 156,000 entries enter through two U.S. ports, Port Huron and Detroit. That is 156,000 separate entries crossing into the United States every year through two ports.

A total of our top 20 Canadian suppliers account for over 92,000 of our entries. And I consolidated our supply base because, as I said before, we treat both our production facilities and receipt facilities and our suppliers by codes, and we all have ship-from codes, ship-to codes. But I put together some of the suppliers, and I guess if there is a security problem, it might be Henry's former company, TRW, because they are a major supplier, and maybe that is the whole problem right there.

Anyway, entered value which in this particular context is not as significant, but we import goods valued at over $15 billion. Again, we rank in the top five by entered valued. Over half of that comes from Canada.

And although I was told in a bar review exam that the good thing about lawyers is we do not have to do the math, I quickly calculated that of $313 billion exported from Canada and United States, if we have $8 billion, Ford alone accounts for two-and-a-half percent of Canada's trade with the United States. And I think that would put the automotive industry at well over ten percent. That actually surprised me.

To show the importance of free trade, and I am not even addressing the things that Garland just addressed, which are supply chain, the actual facts, and the mechanics of industry. This is an important point. Under NAFTA we save or avoid in duties over $1 billion, and I do not want to be too specific about the number. But I will tell you that number is actually extremely conservative, on the low side of the amount of the money that we avoid in duties. Our effected duty rate on goods imported from Canada is 0.1

171 See generally id.
172 See generally id.
173 See generally id.
174 See generally Bryce G. Hoffman, Ford heads off supplier problems; Sophisticated computer programs, CIA techniques tell automaker who is ailing, DETROIT NEWS, Feb. 26, 2007.
176 See generally Young, supra note 168.
177 See generally Malone, supra note 169.
178 See generally Young, supra note 168.
percent.\textsuperscript{181} And that is just really the very, very few suppliers that do not qualify or cannot qualify their parts for NAFTA.\textsuperscript{182}

Actually for supply chain and for operational purposes, this is an interesting fact. I have here that we effectively claim duty-free imports in over 99 percent of our entries from both Canada and Mexico.\textsuperscript{183} We measure two points in that. We measure what we call first time through, meaning that a shipment has a NAFTA certificate of origin, we have it in-hand, and we can claim the NAFTA benefit at the time of entry.\textsuperscript{184} And then if a shipment does not but we can subsequently qualify the goods or get proof of qualification, we will then claim NAFTA, and the effective is the combined.\textsuperscript{185}

But operationally, and this again gets back to concerns about measures that will thicken the border, the reason that we want first-time through or emphasize first-time through is we want actually our duty-claim process to be as quick and as efficient as our physical crossing.\textsuperscript{186} And it would be ironic, to say the least, if our first-time-through rate was better than our ability to physically move our goods across the border.\textsuperscript{187} In fact, actually, I would not have a job anymore. It would be a really interesting statistic that I could sit around at a bar and tell people because our plants would be shut down.

And here is where I can do some offering of opinion. With Ford making just on the Canadian border over 163,000 individual shipments a year, can anyone reasonably think that we have the ability to increase shipping time or increase inventory stored? Or if we could, what would be the cost of that, what would be the impact of that?

I would like to suggest that, and this is not just the United States, this is all customs authorities, security is, and let it be very, very clear, Ford Motor Company are a bunch of people who live in Canada and the United States

\textsuperscript{181} See generally Daniel L. Kiselbach & Katherine Xilinas, Reducing duties on imported goods, Law Wkly, Apr. 8, 2005 (discussing the calculation of duty rates).

\textsuperscript{182} See generally 19 U.S.C. § 3332.

\textsuperscript{183} See generally Krista Boryskavich et al., The Auto Pact, Kluwer L. Int'l., 2003, (noting that “NAFTA provides for the duty-free movement of vehicles and parts as long as the North American content requirements are met”).


\textsuperscript{185} See generally id.


\textsuperscript{187} See generally id.
and Mexico and a whole bunch of other countries around the world.\textsuperscript{188} We do not want to be afraid that terrorists or criminals or other bad people are going to hurt us. We are as interested and as patriotic as anybody else because we are anybody else. We are not just a big blue oval sitting up there and I think that is sometimes lost.

So security is important, and we recognize and support the interest of the government in maintaining the national security and the regional security of us, people, but we also need to have security of economy. We all need jobs. We all need to eat, and we need to have the means that we can eat. And some of the measures that have been suggested threaten them.\textsuperscript{189}

We would suggest that security measures be risk-based, meaning that the customs authorities based on information provided to them by shippers, by importers, by carriers, by brokers, freight forwarders, all the service providers and all of the participants in the supply chain, that with information provided by those, all those participants, they can make programmable risk assessments as to which shipments pose threats.\textsuperscript{190}

But first, I need to go back and cover C-TPAT. Ford was one of the original seven members in C-TPAT.\textsuperscript{191} I do not know how many of you know that. It is the Customs-Trade Partnership Against Terrorism.\textsuperscript{192} It was one of the first programs announced by U.S. Customs after the events of 9/11 in which participants voluntarily joined with Customs, provided them with data so that Customs can determine whether or not a particular supply chain is both secure and in the level of risk that the supply chain represents.\textsuperscript{193} Ford was one of the original seven members.\textsuperscript{194} We were just revalidated as Tier 3, meaning that we are within the class of the lowest risk importers validated by U.S. Customs.\textsuperscript{195}

\begin{itemize}
\item [\textsuperscript{188}] See generally Ford Global and International Information, available at http://www.ford.com/about-ford/company-information/ford-international-websites (last visited Nov. 9, 2008).
\item [\textsuperscript{189}] See Egan, supra note 132 (internet update showing the need for the U.S. and Canada to open up the border).
\item [\textsuperscript{190}] See generally Gabriele G. S. Suder, Corporate Strategies Under International Terrorism and Adversity 72 (2006).
\item [\textsuperscript{191}] Id.
\item [\textsuperscript{192}] Id.
\item [\textsuperscript{194}] Suder, Gabriele G. S., Corporate Strategies Under International Terrorism and Adversity 72 (2006) (explaining the different ways that companies helped create and deal with C-TPAT).
\end{itemize}
And now, back to Ford's 163,000 individual shipments coming across the border every year.196 If you get Ford out of the way and maybe GM and Chrysler, you put roughly 300,000, 500,000 shipments all out of the way.197 Now who is left? Probably the higher-risk shipments. Probably the bad guys. If you get all of these shipments and entries out of the way, does not Customs stand a better chance of actually seeing and interdicting the bad guys?198 We think so.

Non-discriminatory methods are those that treat all shipments, all importers, and all shippers in the same way by simply saying everybody has to provide the same data at the same time.199 Quite frankly, I do not see how anyone can handle the volume of information going back to it. That would mean that just from Canada alone, Ford will be filing complete sets of information for every single one of the 163,000 transactions, just with Canada.200 And remember, we have over 200,000.201 And GM has a slightly greater volume, Chrysler has somewhat of a lesser volume, and then there are Toyota, Honda, Nissan, and this is just the automotive industry.202 And we would suggest that it is not going to work I think is the simplest way and the most smart way to say it.

I would just like to close with a couple of personal reflections. I have been practicing Customs law for just over 20 years now. And when the events of 9/11 and the subsequent things, I actually have not spent, at least initially, a great deal of time on security. It is not what Customs law has traditionally been.203 Customs law traditionally has been issues of terror classification, valuation, and other actually relatively academic or intellectual exercises involved in the trade of goods.204

Recently by necessity, I have had to focus much more on this. I think that we are now having to address this issue. In the week following 9/11, the wait times coming into the United States; the border was actually virtually shut

197 Id.
199 See Suder, Gabriele G. S., supra note 194.
200 See generally Ford Motor Company, supra note 196.
201 Id.
202 Id.
203 Kranig, Jeff, Five Things Every Lawyer Should Know About Customs & International Trade Law, 18-APR CBA Rec. 37 (Apr. 2004) (introducing basic tenants of custom and trade law).
204 See generally id.
down. The wait times just coming into Michigan; were measured in terms of kilometers. The lines were 10 to 11 kilometers long on the Canadian side. And in the box where it said Number of Hours, the wait could not be estimated.

We are very concerned. I am very concerned that what I am calling non-discriminatory assessment methods will result in the same thing. And I do not know that if the national economies can afford that; I certainly know that the Big Three cannot. That may be one of the crippling blows.

And in closing, I would suggest to you that we might want to think or remind ourselves of the effect of Smoot-Hawley in the 1930s. Measures that are being proposed now in the name of security could well be the 21st century post-9/11 equivalent of Smoot-Hawley.

So as I said, I am the prodigal son who has finally come home, and gee mom and dad, I have some kind of bad news to tell you. However I would like just to close and say that this kind of forum and this gathering of people is a huge step for us in the right direction. That is, if people start thinking about it and talking about it, we will come up with the right solution because that is the important part.

Security is at threat and we are at threat. We have to recognize that. But there has to be a reasonable practical solution in everyone's economic, social, and cultural interest. Everything has to be considered.

Thank you.

MR. TOMPKINS: Paul, thank you very much.

At this time we will take questions from the audience. I have a number of questions for my colleagues, but I will to defer to the audience.

207 See id.
208 See generally id.
210 See generally id.
211 See generally id.
213 See generally id.
DISCUSSION FOLLOWING THE REMARKS OF GARLAND CHOW AND PAUL VANDEVERT

MR. GARLOCK: Good morning. I am Tom Garlock with the Niagara Falls Bridge Commission, and my question is for Paul Vandevert. Paul, has Ford Motor Company calculated the cost of compliance with security regulations since September of 2001? Do you have any kind of a handle on what it costs a company to comply?

MR. VANDEVERT: The answer is yes and no. However it is because truth be told, Ford has not had to, and I think this is generally true for the big automotive manufacturers, but not the smaller suppliers and not other industries. But one of the points that we have been making or have been trying to make to the customs authorities is our supply chains prior to 9/11 were very, very secure. And, just-in-time manufacturing methods and quantities are a really big deal.

So we cannot afford to have a container that is supposed to have 15,000 parts in it and turn up with only say 14,000 because if there is only 14,000, that means the line shuts down because at least to date we have not distributed or sold our products with "Oh, we will get you the engine later." "We did not have it now, but we wanted to get it to you, so we just decided to, you know, send it." "We will ship it without the engine."

And that has been a difficult thing because we know that it has increased the cost, but it is also been something which as the Customs authorities keep telling us, well, you know, we know you have to spend some money on this. But we have been trying to tell them we had actually very secure supply chains before. Take that. That is a good thing.

MR. TOMPKINS: Another question in the back.

MS. MATTHIESEN: Thank you. My first question is for Paul. I am Birgit Matthiesen from the Canadian Embassy, and you and I have spoken, Paul.

MR. VANDEVERT: Hi.

MS. MATTHIESEN: Paul, the two stats that you just quoted, and it is 163,000 shipments per year from Canada, $8 billion of import value from Canada alone on here. I am hoping it is not like the first question, but give me a sense of the percentage in either value or physical shipment over the border from Canada that is not a finished vehicle, that it is a vehicle somewhere in the process of being manufactured. And if I can have just one quick question for Garland.

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214 See generally Hoffman, supra note 7.
215 See generally id.
216 See generally id.
217 See generally Canadian Logistics Industry, supra note 119.
Garland, the distribution center for Alco Ventures in Kent, Washington has been in operation for how long; when did they realize they needed to have a distribution center in Kent, Washington?

Those are my two questions. Thank you.

MR. VANDEVERT: As far as the values go, I was looking at that, and then I buried it. By numbers, there is a huge discrepancy. Our top supplier of parts by terms of transactions is number two, but by value of parts is number 147. And what it is, it supplies things like plastic, probably plastic gaskets and things like that. So the value of their goods is $14 million. But the number of shipments for those parts, very low value, but in terms of border crossing, they are a high-volume shipper.

And for security we are trying not to measure by value. You just cannot measure security by value because the rhetorical question that is unanswerable is, what price security? So that is why I was concentrating on the volume of transactions because even if value does not make a difference, the number of transactions that a supplier has and the number of times and the amount of information that we have to report is a big deal.

MR. TOMPKINS: Not to mention currency implications in value as well.

Garland, I think the other question was directed your way.

DR. CHOW: Yes. And the answer is I do not know the exact date. They did have to ensure that they had product easily accessible, but whether it was before or after 9/11, I do not know. That is something I better check on.

MR. TOMPKINS: Yes, two questions over here.

MR. OPLINGER: This is for Paul. I appreciated the sort of the 30,000-foot level viewpoint from Ford on trying to get your products back and forth. But since you mentioned C-TPAT, I am wondering if you can maybe speak more specifically about that as one the original seven founders of it. How is that working for Ford, and what are recommendations -- maybe in 30 seconds to a minute -- would you see as being able to improve that so that you could utilize it more efficiently?

MR. VANDEVERT: Well, as I said, in many respects, our lives did not change that much with C-TPAT because we already had a highly secure supply chain. That being said, being in C-TPAT and being the lowest risk status is incredibly important because the basic proposition of C-TPAT is not so much that there are actual benefits; I mean, CDP has acknowledged that

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219 See generally id.
220 See generally id.
221 See generally id.
222 See generally id.
223 See generally id.
today they cannot tell you there is an actual benefit, but the real benefit is in
the next event as they are trying to sort out and open up the border who will
get through first.\textsuperscript{224}

What I was trying to say is that we think that C-TPAT is an excellent
foundation and should be further developed and further enhanced. And it
could actually address for Customs, not just -- and these are actually remarks
that Ford has actually made publicly in testimony to Senate Finance
Committee. We actually believe that C-TPAT lays the foundation for not just
having a very effective security assessment and risk-based method, but they
could actually expand customs efforts into such things as anti-counterfeiting.
And we for example suggested what I call the Tier 4, that if we provided
detailed data of our entire supply chain and our suppliers and our related
importers, that if Customs could sort all those out, then counterfeited parts of
which we are very concerned about could be more easily targeted and more
effectively targeted.

So I see C-TPAT and Ford sees C-TPAT as a great foundation that we
really would hope that Customs would look harder at, work on, and develop.

MR. TOMPKINS: For the last question at the top of the hour, our Chair,
Dr. King.

DR. KING: Paul, I am intrigued by your risk-based approach toward
Customs. First, I would be interested in how you implemented, and also, the
question of whether other suppliers of other products are not going to coin
discrimination in favor of the automotive industry. I notice our chairman said
that he was concerned about the approach on chemicals.

So how do you escape out of these barriers, assuming it is a good
approach? I think it is a good approach.

MR. VANDEVERT: Well, assume it is a good approach. Actually, when
I say risk-based, it is Customs that would be doing it.\textsuperscript{225} And this is one of
our points, C-TPAT is an enforcement method that Customs has designed
and implemented, and the elements of C-TPAT, providing information and
Customs validating them is not just for the automotive industry.\textsuperscript{226} It is for all
industry sectors.\textsuperscript{227}

So it is the ability of Customs to understand the differences of each of the
industries that are participating. We are all in the supply chain, but there are
differences.\textsuperscript{228} But that is better handled, and I genuinely believe when I said
programmable, I think that a risk-based assessment is something that can

\textsuperscript{224} See generally Customs and Border Patrol, \textit{C-TPAT Overview}, available at
http://www.cbp.gov/xp/cgov/trade/cargo_security/ctpaxwhat_ftpct/ctpaxoverview.xml (last
\textsuperscript{225} See generally id.
\textsuperscript{226} See generally id.
\textsuperscript{227} See generally id.
\textsuperscript{228} See generally Hoffman, \textit{supra} note 7.

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literally be put into a computer so that when shipments are coming across and data fields are provided, that a computer can run a program that can say this is low risk, this is medium risk, this is high risk. But that would require the program and Customs to understand what each of the industries, what the data they provide means.

I mean, if he is shipping chemicals that are highly combustible material, that does not mean it is a bomb, it just means it is highly combustible, but those are things that can be identified, and as I say, objectively programmed. Again, it is not for us to do the assessments, it is for Customs to do it.

MR. TOMPKINS: Paul, thank you. Garland, thank you very much for a terrific discussion. And we look forward to networking during the break or later on today and tomorrow.

That will conclude our panel. Thank you.

(Session concluded.)