
January 2005

Canadian Speaker Session 5: Canada and U.S Approaches to the Movement of People - Canadian Speaker

Catherine A. Sas

Follow this and additional works at: <https://scholarlycommons.law.case.edu/cuslj>

 Part of the [Transnational Law Commons](#)

Recommended Citation

Catherine A. Sas, *Canadian Speaker Session 5: Canada and U.S Approaches to the Movement of People - Canadian Speaker*, 31 Can.-U.S. L.J. 139 (2005)

Available at: <https://scholarlycommons.law.case.edu/cuslj/vol31/iss/24>

This Speech is brought to you for free and open access by the Student Journals at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Canada-United States Law Journal by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.

CANADIAN SPEAKER

Catherine A. Sas[†]

Thank you very much, James. It is a great pleasure to be here. As Jim mentioned, I was referred to speak here. I was not aware of the institute, and I have really enjoyed all of the presentations here today. But it is not a group that I was aware of, and I was pondering very carefully how I might address you and what focus I should take.

And I was feeling a little bit sensitive about how I raise delicately the differences in our system so I have to say thank you to Jim, James, the previous speaker for setting the stage that Canada and the United States don't always see eye to eye on how we go about things.

There are many differences obviously between the American and the Canadian systems. I would say the fundamental difference between our two systems is that Canada actually needs immigrants. We don't have enough people. I was endeavoring to get some great statistical information from a couple of economists I know, but frankly, when the material they got me came, I couldn't understand it, and I didn't think you would be able to either.

But the materials I did prepare, there is a very good recent article from a Canadian business magazine that talks about the shortage of people we have and the impact it will have on our economy in the coming years. And that need for people is reflected in our legislation, Section 3 of the Immigration Act,¹ and there are two parts to that. I am just going to talk about the part right now that addresses immigrants.

It focuses on our immigration objectives, and it is there for you in the materials. It is right up front. We need people, and these are the premises upon which we want to bring people into our country.

[†] Catherine Sas is a graduate of the University of British Columbia. Ms. Sas has been practicing immigration law in Vancouver for 15 years, primarily focusing on helping individuals and families obtain their Canadian landed immigrant status and Canadian citizenship. Ms. Sas represents clients both in Canada and abroad. Ms. Sas works closely with individuals, families, corporations, executives, government departments, the film and entertainment industry, and small businesses to satisfy their unique immigration requirements. Ms. Sas is an active member of the Canadian Bar Association, the Past Chair for the BC Immigration Law Section of the CBA and the National Immigration Law Section. Ms. Sas has held numerous positions within the CBA at the National and Provincial levels, has participated in continuing legal education seminars, appeared before parliamentary committees on immigration issues, and spoken at International Conferences and Symposiums.

¹ Immigration and Refugee Protection Act, R.S.C., Sect. 3 (2004).

The other significant factor of our act is entitled the Immigration and Refugee Protection Act,² and that word “refugee” is a very significant component. Our act was changed recently, June 28th, 2002.³ It was debated and discussed for quite some time, and then it was brought in rather quickly in the aftermath of September 11th, and many of us feel a lot of the provisions that are in the new act are to address some of the concerns raised as a result of September 11th.⁴

But it is important to note that the refugee component of the legislation is a significant part of it. And Section 3’s other definitional part of objectives goes to the whole issue of refugees.⁵ For the past several years, Canada has targeted and accepted in excess of 200,000 immigrants per year.⁶ We bring in somewhere around 220,000 to 230,000 people each year.⁷

Targets have frequently suggested that we should be at least at 1 percent of the population, which would have us in excess of 300,000 people per year.⁸ Sadly, we just don’t have the resources and the manpower to be able to process the people that are applying now let alone try to reach those 300,000 targets.

So one of the objectives you see in Section 3 is we are supposed to bring immigrants in in a timely manner, and we are not able to do that particularly well. Immigrants are broken down into two essential classes: Economic and non-economic.⁹

The economic component of the immigration program is approximately 60 percent,¹⁰ and those applicants come in under categories that are “skilled worker” or “business applicants,”¹¹ and business applicants are broken down into “investor,” “entrepreneur” and “self-employed.”¹² Last year the numbers showed that of the business applicants they were approximately 8,000 or 9,000.¹³ So the business component does not make a large component.

² *Id.*

³ Citizenship and Information Canada, *Immigrant and Refugee Protection Act*, <http://www.cic.gc.ca/english/irpa/> (Mar. 23, 2003).

⁴ Citizenship and Information Canada, *Citizenship and Immigration CIC’s Role in Public Safety*, <http://www.cic.gc.ca/english/pub/sept11.html> (Apr. 29, 2003).

⁵ *Immigration and Refugee Protection Act*, *supra* note 16.

⁶ Canada Immigration Consultants, *About Canada*, http://www.canreach.com/aboutus_Canada.asp (2004).

⁷ *See generally id.*

⁸ Alan G. Green and David A. Green, *The Economic Goals of Canada’s Immigration Policy: Past and Present*, 25 CAN. PUB. POL’Y 425, 434 (1999).

⁹ Immigration and Refugee Protection Act, S.C. 2001, Ch. 27, § 3 (2001).

¹⁰ Citizenship and Immigration Can., *Ann. Rep. to Parliament of Immigration* (2004), available at <http://www.cic.gc.ca/english/pub/immigration2004.html#table5>.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

The other 40 percent of the immigrant program is family class response or ships, refugee claimants and humanitarian compassionate cases.¹⁴ The humanitarian and compassionate and refugee tradition that we hold is not just in our immigration program; it is really part of the Canadian fabric.

Canadians identify themselves by these aspects, and it is a very delicate balance in terms of the goals of Government in satisfying that. Canadians are quick to comment when we think we are being too soft or when we are being taken advantage of. But by the same token, we get outraged if immigration officials are too harsh on people.

One of the things I have observed over the years – and I think I have sensed this in the last little bit with listening and looking at the American system – you suffer the same problem. Everybody is quick to criticize the system, but it is very difficult to come up with a solid solution to address all the different problems that arise. It tends to be done on a bit-by-bit basis.

The other thing I would observe, part of my job in the immigration practice is reconciling, at least with the public, the difference between myths and realities. There are a lot of perceptions about immigration that just aren't necessarily so.

You know, I think Jim Phillips here from the department, he probably hears a lot of stuff about the way immigration is run, but in actuality, it is quite different factually, so when we address these problems, we have to ask ourselves, are these real problems that need to be solved?

And then you also have the different balances, pushes and pulls. The needs that we have for trade are different than the needs that we have for security, are different than the needs we have for immigration.

You may also find it interesting to note to find out how the United States fits in our immigration program. I have the statistics of the top ten countries of source immigrants to Canada, and the United States ranks number six.¹⁵

The breakdown of numbers is quite interesting: China is number 1 with just over 16 percent; India is No. 2 with just over 11 percent; Pakistan at 5.6; the Philippines at 5.4; Korea at 3.2 and the United States at 2.7.¹⁶ So even only representing 2.7 percent of the immigration to Canada, you rank No. 6 in overall source countries.

Moving on to specifically immigrants, you will note I put an article in from our finance minister talking about the difficulty the Government has with finding the resources to meet the targets and to put the immigrants through the system.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

And immigration is a competitive business.¹⁷ There are other countries such as Canada that need immigrants. Australia is a strong competitor,¹⁸ and people are looking to move. The Chinese market is a good example.¹⁹ It is large and very mobile right now, but the difficulty is with being able to process immigrants in a timely manner, and Canada is not doing terribly well with that right now.

We have got in the skilled worker problem – you are lucky you can get an application processed in about a year-and-a-half.²⁰ Many countries it takes three to four years.²¹ Business applicants – that desirable sector – minimum three or four years.²²

The family class gets the highest priority processing for spouses and dependent minor children,²³ and that's taking, on average, a year or more.²⁴ In some countries it takes more than two years.²⁵ Parents and grandparents, a group that we allow, has been relegated to the bottom of the barrel.

If you have sponsored your parent, you can expect to wait anywhere from five to ten years to get them processed.²⁶ So one category that is new, and is of legal significance I think to this group, is what is called the provincial nominee category.²⁷ Immigration is a federal jurisdiction,²⁸ but there is some provincial jurisdiction in our constitution,²⁹ and so in order to facilitate immigration to provinces, most of the provinces have signed agreements with the federal government that allows them to select immigrants that they want, that they think are going to economically benefit the province, and each

¹⁷ See generally, *Canada Faces Growing Competition for Immigrants to Ease Skills Crisis*, 199 ASIA-PACIFIC BULLETIN (March 11, 2005) (competition for immigrants increases as countries seek to secure skilled immigrant workers and businessmen).

¹⁸ See generally *id.*

¹⁹ Don J. DeVoretz and K. Zhang, *A Canada-China Trade Visa or CCTV: Something to Look For?*, METROPOLIS, at 9.

²⁰ See *id.*; see also Citizenship and Immigration Can., *Applications Processed in Canada*, <http://www.cic.gc.ca/english/department/times/process-in.html> (last visited Nov. 11, 2005) [hereinafter *Applications Processed in Canada*].

²¹ See generally, Commonwealth Immigration & JobSearch, *Immigration Processing Times*, http://www.cdnimmigration.com/proc_times.html (may take up to 26 months to secure an immigration application interview in the commonwealth countries) [hereinafter *Immigration Processing Times*].

²² See generally *id.*

²³ *Applications Processed in Canada*, *supra* note 20.

²⁴ *Id.*

²⁵ See generally, *Immigration Processing Times*, *supra* note 21.

²⁶ See generally *id.*

²⁷ *Applications Processed in Canada*, *supra* note 20.

²⁸ Citizenship and Immigration Can., *You asked about...immigration and citizenship*, available at <http://www.cic.gc.ca/english/pub/you-asked/section-08.html> (last visited Nov. 11, 2005).

²⁹ See *id.*

province's provincial nominee program is different.³⁰ It has been a very, very successful program.

When we talk about numbers, they started out by allocating 200 to 300 people per year per province,³¹ so when you put that in context of the numbers we are talking about, it is not huge, but the potential for growth is there, and more and more the provinces are looking to utilize this process.

What are the benefits of this? Well, if you go through the federal process and you take a look at those time lines that I told you where you wait two, three, four, five years, no decision is made until that application is actually gotten to. Most of that two to five-year waiting period is just sitting on a shelf.³² So you have to wait through that process until somebody can actually turn their mind to that application.

The provincial offices look at the process up front. They say, do we think you are going to be somebody we want? They say yes or no within a month or two.³³ So that allows an immigrant to know whether they are in or out and whether they want to try to navigate the federal process.

Once a nomination has been made, the provinces work with the federal government to get that application fast-tracked. So it is a very, very useful program in terms of allowing the provinces to select people that they want in particular economic sectors and to bring people into the country faster.

Talking about temporary people – and this refers to visitors, students, workers – and when we think of visitors we think of tourism, when we think of students we talk about our educational institutions, and when we talk about workers we are dealing with the business sector. The question that came in the materials for me to think about was, how do people live in one country and work in another? Well, it is not that easy. You can only do that if you have a work permit, first of all.³⁴ And very few people are going to live and go back and forth that way.

It does happen, and it does happen with NAFTA, but as we've talked about here today, NAFTA is relatively restricted unless you are a business

³⁰ See *Provincial Nomination*, <http://www.cic.gc.ca/english/skilled/provnom/index.html> (last accessed Nov. 13, 2005) [hereinafter *Provincial Nomination*].

³¹ See *Canada and Manitoba Reach Agreements on Provincial Nominees and Immigrant Settlement Services*, Jun. 29, 1998, <http://www.cic.gc.ca/english/press/98/9835-pre.html>.

³² See Computerworld.com, *Backlog Keeps Visas on Shelf*, <http://www.computerworld.com/news/2000/story/0,11280,45454,00.html> (last accessed Nov. 13, 2005).

³³ See *Frequently Asked Questions on New Brunswick Provincial Nominee Program*, <http://www.gnb.ca/immigration/english/FAQ/index.asp> (last accessed Nov. 13, 2005).

³⁴ *Working Temporarily in Canada: Overview*, <http://www.cic.gc.ca/english/work/> (last modified Apr. 13, 2005).

professional, an inter-company transferee, or business person.³⁵ NAFTA is not going to apply to you, so it is rather limited.

We do have people that live on the border cities and travel back and forth, but they need that work permit to do it. If immigration thinks that somebody is actually living in Canada, that status can be taken away so it is up to the individual to demonstrate that they are solely in Canada for a temporary purpose, not for a permanent purpose.³⁶ In terms of generally obtaining a work permit, Canada starts with the presumption that we can only bring people in if there is a demonstrable need for labor,³⁷ meaning the onus is put on to an employer to demonstrate they can't find a suitably trained Canadian. That's the basic.

There are a number of exemptions,³⁸ and obviously, as lawyers, we try to facilitate using the exemptions to bring people in, because we can bring them in faster. NAFTA is one of those processes.³⁹ Inter-company transfer release are another process.⁴⁰ Information technology workers have an expedited process,⁴¹ so these allow people to move a little bit faster and allow businesses to get people that they need.

Ellen also reminded me at lunch – she was stating that in the United States you don't have any mechanism to bring in unskilled labor.⁴² Canada has a couple of programs for bringing in unskilled labor,⁴³ although generally the vast majority of the labor coming in is not unskilled.⁴⁴

We have a live-in caregiver program,⁴⁵ which allows us to bring in what used to be called foreign domestic workers or nannies. It is not a fast process, but at least it allows them to come in. Currently, if you are coming from the Philippines – and the Philippines provides the majority of our nannies⁴⁶ – you

³⁵ See *You Asked about...Immigration and Citizenship: Business People*, <http://www.cic.gc.ca/english/pub/you-asked/section-18.html> (last accessed Nov. 13, 2005) [hereinafter *Immigration and Citizenship: Business People*].

³⁶ *Working Temporarily in Canada: What You Need to Know*, <http://www.cic.gc.ca/english/pub/work-temp.html> (Apr. 4, 2005).

³⁷ See *Canada's Immigration Law*, Aug. 2002, <http://www.cic.gc.ca/english/pub/imm-law.html>.

³⁸ *Immigration and Citizenship: Business People*, *supra* note 35.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ See Spencer E. Ante, *Keeping out the Wrong People*, BUS. WK. ONLINE, Oct. 4, 2004, available at http://www.businessweek.com/magazine/content/04_40/b3902094_mz063.htm.

⁴² See Larry J. Obhof, *The Irrationality of Enforcement? An Economic Analysis of U.S. Immigration Law*, 12 KAN. J.L. & PUB. POL'Y 163, (2002).

⁴³ *Provincial Nomination*, *supra* note 30.

⁴⁴ See Ishani Duttgupta, *Canada: Dream Destination For Young Professionals*, THE ECONOMIC TIMES OF INDIA, Nov. 24, 2003.

⁴⁵ *The Live-in Caregiver Program: For Employers and Caregivers Abroad*, <http://www.cic.gc.ca/english/pub/caregiver/> (last visited Nov. 13, 2005).

⁴⁶ See *Advocates Call for Changes to Ottawa's 'Nanny' Program*, CBC NEWS, available at

can look at a wait of over two years to get that nanny.⁴⁷ So it is very difficult, but it is a good program in filling that labor shortage.

We also have our agricultural farm programs that are based primarily out of Ontario,⁴⁸ but I think they also have them in Winnipeg that allow for short-term positions for agricultural workers as long as the employer brings them in and assures their return.⁴⁹ So far that program does not, to my knowledge, allow for a person to obtain permanent residence.

Students – I had a very interesting discussion with the gentleman at lunch about students – present a very interesting problem. And I will use China as an example because the Chinese market has been referred to today, and it is a growing market. There is a large market for Chinese students.⁵⁰

I have been on a number of trade missions for the Government to China, and on the trade side of things of our emphasis, the trade side is working very hard to set up all these meetings, conferences, and Canadian universities, and colleges are a large sector that come to these missions with a view of establishing relationships with universities or recruiting students themselves.

Sadly, once they leave and they try and actually bring the students in, they have a hard time getting visas for those students to come. The refusal rate on student applications out of China is about 50 percent.⁵¹ So that's one of the push and pull factors that I was talking to you about.

Canadian universities and colleges want the students. They spend the money going on the trips to recruit them.⁵² They set up the memorandums of understanding with the schools overseas, and then they can't get the student into the country to be able to study.⁵³

The next topic that I wanted to move on to is refugees and dovetails nicely with finishing what I was just talking about. Why do we restrict people from coming into Canada as students? Because they might make claims

<http://www.cbc.ca/story/canada/national/2005/03/25/nannines050325.html> (last updated Mar. 25, 2005).

⁴⁷ See Scott Simmie, *Many Employers, Agencies Abuse Live-in Work Program*, TORONTO STAR, Oct. 30, 2004, Pg. A3.

⁴⁸ See *Hiring Foreign Agricultural Workers In Canada*, May 20, 2004, <http://www.hrsdc.gc.ca/en/cs/comm/hrsd/news/2004/040520a.shtml>.

⁴⁹ *Id.*

⁵⁰ *Foreign Institutes Clamor for a Piece of the Chinese Education Market*, XINHUA GENERAL NEWS, Oct. 10, 2005.

⁵¹ See generally *Student Numbers Down in Canada*, EDUCATION TRAVEL, available at <http://www.hothousemedia.com/etm/etmbackissues/septetm05/septetm05news.htm> (last visited Nov. 11, 2005).

⁵² See Associations of Universities and Colleges of Canada, *International Student Recruitment*, available at http://www.aucc.ca/_pdf/english/reports/2002/innovation/intlstudent_e.PDF (last visited Nov. 11, 2005).

⁵³ See generally *id.*

as refugees.⁵⁴ While we have a rather generous and open refugee program, we also run our immigration program in my view that somebody might access the refugee process.

Temporary visitors or residents are scrutinized on whether or not they are going to leave, and if there is a potential for making a refugee claim, that really often makes a decision or factors largely in making the decision.⁵⁵ So when a family member from India wants to come to attend a wedding or funeral, they get refused routinely because they might stay and make a refugee claim. And sadly, it breaks down into a lot of countries that have visas and those that don't.

So if you are coming from a country where a visa is required, you are going to face a lot tougher scrutiny about whether or not your entry will be permitted. That being said, Canada's refugee program is very successful. It was recognized in 1986,⁵⁶ but the United Nations High Commissioner for refugees as a nation was accepting and facilitating the placement of refugees internationally.

We also get a lot of criticism for our refugee program because we are told we let in people too easily, and that's where our terrorists and security risks are entering under the premise of making refugee claims.⁵⁷

The UN Convention provides that we are obliged to allow a person who makes it onto Canadian soil to make a refugee claim,⁵⁸ and Jim talked about the interdiction process. The interdiction process is a good process from the security point of view. It is not necessarily a good process from the refugee point of view.

If you are an individual who has a fear of persecution, you want to try to assert that claim, you need to be able to get to Canada to do that. We do have overseas refugee selection.⁵⁹ It is not as comprehensive as our inland refugee determination system.⁶⁰

⁵⁴ See Guidy Mamann, *Students Take Risks in Claiming Refugee Status*, <http://www.ilw.com/canada/2005,0322-mamann.shtm> (last visited Nov. 11, 2005).

⁵⁵ See generally Citizenship and Immigration Canada, *Temporary Resident Visa*, <http://www.cic.gc.ca/english/pub/temp-resident-visa.html> (last visited Nov. 11, 2005).

⁵⁶ *Canada's private Sponsorship of Refugees Program: 1979-2004*, Citizenship and Immigration Canada, <http://www.cic.gc.ca/english/pub/refugees-25.html> (last visited Nov. 11, 2005).

⁵⁷ *U.S.-Canada Border Issues*, Center for Immigration Studies, Apr. 7, 2003, available at <http://www.cis.org/articles/2003/canadaborderpanel.html>.

⁵⁸ See U.N. Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

⁵⁹ See generally Citizenship and Immigration Canada, *Annual Report to Parliament on Immigration, 2005*, available at <http://www.cic.gc.ca/english/pub/annual-report2005/section4.html> (last visited Nov. 11, 2005).

⁶⁰ See *id.*

Furthermore, there are different components. In the overseas program, generally, you have to be sponsored by a church, or, alternatively, you have to be able to demonstrate that you are going to be able to successfully establish yourself in Canada.⁶¹

There is that immigrant component to the refugee process when you are making a claim overseas. That might not seem very big to you, but if you think of the helpless women and children we all envision when we think of refugee camps, how on earth are they going to demonstrate that they have the ability to successfully establish themselves in Canada? It just doesn't make sense.

A particularly successful refugee initiative that Canada undertook in my opinion was our effort in Kosovo where we went overseas to bring the refugees to Canada.⁶² And I think that's something that this group might like to think about when we talk about security issues and the movement of people. The world is a very different place today than it was when the convention was put together after the Holocaust.

We didn't envision the globalization and the ease of mobility between nations. The process arose when legitimate individuals were fleeing from persecution, and we turned them away from our borders.⁶³ So now we have a policy that says we must accept them. A lot of the people able to get to Canada to make refugee claims are young single males who are relatively affluent on the world scale compared to, as I referred to before, people who are in refugee camps.⁶⁴

So we have to ask ourselves: Do we want to continue to have a process whereby we are encouraging people to come into our borders, or do we want to take our resources and go overseas for our refugee or asylum program?

Lastly, I am going to address security issues. We have done a fair bit since 9/11 to change the way we do things in Canada. The first thing is that we have enacted the Canadian Border and Services Agency.⁶⁵ Basically, we left the immigration department with the immigration selection part of things – the front end. And as to the removal side of things, when it is time to go, that's now at CBSA.

⁶¹ Application for Permanent Residence in Canada, <http://www.cic.gc.ca/english/pdf/kits/guides/6000E.PDF> (last visited Nov. 12, 2005).

⁶² See Citizenship and Immigration Canada, *Appeal to Canadians to Sponsor the Kosovar Refugee*, May. 10, 1999, available at <http://www.cic.gc.ca/english/press/99/9924-pre.html>.

⁶³ See *Canada Turns Its Back on Refugees*, CANADIAN COUNCIL FOR REFUGEES, Apr. 3, 2003.

⁶⁴ Sojourn House, <http://www.sojournhouse.org/faq/index.php> (last visited Nov. 11, 2005).

⁶⁵ Canada Border Service Agency, <http://www.cbsa-asfc.gc.ca/agency/menu-e.html> (last visited Nov. 12, 2005).

In addition, we have got a security certificate process for people who are suspected of being terrorists.⁶⁶ I put that piece of legislation in, Section 34, in terms of who we think to be a security concern. I have also put in a very detailed paper on security issues that was prepared by one of my colleagues, Lorraine Waldman.

We presented it last year to the Canadian Bar Association. Lorraine Waldman is the lawyer that is representing Mahair Arar who is the Syrian fellow that was deported from the United States back to Syria and then tortured.⁶⁷ And I think he represents a concern for both of our governments in terms of how individuals are going to be handled in the post 9/11 world. That paper comprehensively addresses things.

But the security certificate process is a troubling process if you think about it from the perspective of lawyers. The person is held in custody.⁶⁸ Their case goes before a federal court judge, and they are not allowed the opportunity to know the evidence that is going to be presented against them.⁶⁹

It denies one of the basic fundamentals of the rules of law, and that is to know the case that you have to meet. The judge gets to hear the evidence of the government and makes a determination of the summary that can be presented to the other side.

It is a very troubling process, and it is one that raises a lot of questions about what are we going to do in terms of human rights and individual rights in the context of a post 9/11 world. But I also included for the purposes of thinking about this issue a news article with a discussion from one of our federal court justices, and the federal court does not like this process.

It is very troubled by the idea that they have to weigh what evidence the individual can know about on their own. I'm being told I have to wrap up here. I think that covers sort of the basic issues of immigration matters, and Ellen will show the other side.

MR. PHILLIPS: I am going to segue into Ellen; just one item that I overlooked mentioning in my introduction, and that is the removal of the western hemisphere exemption, which you have been reading about in the paper and over the various media fronts. And that is the fact that there is now a timetable for which Americans and Canadians equally will have to present a secure travel document in segments up until January 1st, '08 with land border, '07

⁶⁶ Canada Border Services Agency, *Security Certificates under the Immigration and Refugee Protection Act*, available at <http://www.cbsa-asfc.gc.ca/newsroom/factsheets/2005/certificat-e.pdf> (last visited Nov. 12, 2005) [hereinafter *Security Certificates*].

⁶⁷ *Maher Arar Sues Syria, Jordan*, CBC NEWS, Nov. 2, 2003, available at http://www.cbc.ca/stories/2003/11/24/arar_lawsuit031124.

⁶⁸ *Security Certificates*, *supra* note 66.

⁶⁹ *Id.*

for air and earlier.⁷⁰ The point I want to make is it has been very much misconstrued that Canadians will require passports – Americans will require passports to travel into each other’s country. That’s not so.

You can select the passport if you want, but the travel documents that are acceptable are the low risk pre-registered programs like Nexus for people and Fast for drivers, truck drivers and so forth.⁷¹ And that essentially has the benefit of increasing facilitation for those people that cross at the border today. You are going to cross a lot more easily and more seamlessly with a Fast card or a Nexus card than you will with anything you have today. That’s critically important.

Again, there is an unintended consequence, and that is, we have to be very aware of the people who are spur-of-the-moment crossers, or elderly people who don’t drive and they don’t have documents. They may not cross at all, and that’s a consideration we all have to look at. It is in public comment period right now, 60 days. It was announced on April 5th and 60 days for anyone and everyone who would like to make comment on the benefit or changes or adjustments that are required, so I just – I meant to do that in my beginning.

Ellen can comment on it some more, and if you want to ask questions of us afterwards, we would be welcome to take them.

So with no further ado, I would like to present Ellen Yost, who will talk about the American system.

⁷⁰ See generally Press Release, Dept. Homeland Security, New Passport Initiative Announced to Better Secure America’s Borders (April 6, 2005), available at http://www.dhs.gov/dhspublic/interapp/press_release/press_release_0652.xml (describing the passport requirement for entry into the United States).

⁷¹ *Ensuring the Security of America’s Borders through the Use of Biometric Passports and Other Identity Documents: Hearing on Border Security/Biometric Passports Before the H. Subcomm. on Econ. Security, Infrastructure Protection, and Cybersecurity of the Comm. on Homeland Security*, 109th Cong. (2005) (statement of Rep. Loretta Sanchez, Ranking Member, House Comm. on Homeland Security).

