
January 2003

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Isabelle Dongier

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Recommended Citation

Isabelle Dongier, *The Smart Border: Movement of People - Immigration and Refugee/Asylum and other Aspects - Introduction*, 29 Can.-U.S. L.J. 103 (2003)

Available at: <https://scholarlycommons.law.case.edu/cuslj/vol29/iss1/18>

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THE SMART BORDER: MOVEMENT OF PEOPLE –
IMMIGRATION AND REFUGEE/ASYLUM
AND OTHER ASPECTS

Isabelle Dongier
Introduction

Good afternoon. I want to start by saying I am very happy and honored to be with you this afternoon. You will see by the profile of my colleagues that I will present in a minute, this is going to be a quite different panel from what you have seen from now till today, maybe a more practical and pragmatic panel with very down to earth concerns.

I will first introduce my colleagues and then give a few words of introduction before they will each address those issues. Ellen Yost is a partner in the immigration law firm of Fragomen, Del Rey, Bernsen, & Loewy. She is with their New York office and is a member of the New York and Brussels Bar. Ellen initially practiced cooperate law, before turning to business immigration law in 1991. Her focus is on port of entry adjudication for citizens of Canada under NAFTA and assisting Canadians and European companies while sending their employees to work in the U.S. Ellen is very active in the international law and practice section of the A.B.A. She is also a Fellow of the A.B.A. She is, obviously, a frequent lecturer and author on business immigration issues.

Charlotte Janssen is the principal of Janssen & Associates, an international law practice in Canada specializing in corporate, commercial immigration, and real estate legal services. Her office is headquartered in Toronto, however there are two other locations in Syria and Brazil. Charlotte assists clients from the Middle East, China, and Europe. In the past, she has worked with the international law firm of Baker McKenzie in Toronto, London, and the U.K. She has a B.A. from the University of Manitoba and a M.A. from Carleton University. She obtained her LL.B. from the University of Toronto.

As you see, all of us are lawyers. We are not policy makers. We are not law professors. We have, certainly, a very different approach and viewpoint to address this issue of people mobility across our border. We will not deliver the same kind of messages of those you could read on websites or those of the speeches of the politicians or even the policy makers or all the very sincere civil servants who want to make things work. We certainly bring with us our experience, our daily viewpoint, our practice, and also our contacts with those immigration officers in the field who have to apply the rules and

have to make the decisions that affect the mobility of the manpower across our border.

Several people said today that we are looking for a way to balance facilitation on the one hand and enforcement and control objective on the other hand. From our viewpoint, this is much more than just the small border issues and definitely much more than waiting in lines at the port of entries. When talking about mobility of people, of manpower, business people, and people who have to come to the neighbor country for work purposes we have to look at that in a much wider and broader perspective. Security now is a main concern. The joint efforts that our governments are doing must definitely be commended. For lawyers looking at this from a different viewpoint, what is raising concern is certainly the emphasis on security and the question we face frequently is in this context where security is really taking a predominant place. Is there some room left for the facilitation objective of NAFTA or other programs we may have in mind when we talk about this issue?

For businesses, for companies, for our clients these worries are perceived as typical lawyers' paranoia. That is until it becomes a problem for one of their senior executives facing resistance at the border and sometimes is refused admission into the other country. We have been living with this concern for many months now, if not for years. We have seen in many ways tightening of the rules, not only after 9-11, but even before then. We have seen more strict controls, tighter rules, and also more severe consequences for those who breach the law. We have seen more recently the new registration system identifying some citizens of some countries as potential threats and who are controlled in a different way. This is an introduction of the racial profiling that may affect the rights of individuals and may extend also to a larger number of countries as time is passing by. I will right away pass the microphone and ask Ellen to start.