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Discussion after the Speeches of Earl Fry and Katharine Braid

Discussion

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Discussion After the Speeches of Earl Fry and Katharine Braid

QUESTION: *Professor King:* I am curious as to how various proposals for Quebec's separation affect the situation in terms of the ability to comply with the NAFTA. In other words, there are various proposals for separation which the Quebec voters and their leaders will consider, and I am concerned about getting the benefits of NAFTA. It is probably asking you to look in your crystal ball, but I think it is something in which we would be interested down here in the United States.

ANSWER: *Ms. Braid:* Well, the Quebec voters ought to also be interested in whether they get the benefits of NAFTA. And you may have read that Mr. Johnson was in both New York and Washington last week, and he was assuring everybody that there was not really a problem and that he was going to win in the spring, so that nobody need get worried and devalue the Canadian dollar any further.

But this is a serious issue. It has been suggested by a number of writers that depending on how a separation of Quebec from the rest of Canada took place, that Quebec is perhaps no longer a party to the North American Free Trade Agreement. I would think that would concern Quebec. Quebec is a province whose main trading partner is Ontario. Those are the two Canadian provinces whose economies are the most interdependent.

Whether the rest of the signatories of the North American Free Trade Agreement would immediately agree that Quebec should be a party or not, I do not know. The rest of Canada might be in a pretty ugly mood. I would think it would depend on what the economic factors actually were. But it depends on what question is asked. I do not believe that Jacques Parizeau will ask a clear question if he wins in the spring. He said that he will have a referendum, and if the referendum says, "Do you support a strong independent Quebec in an economic union?" Quebecers would say yes, probably. What does this mean? That will be left to be fought out later.

I do not know whether you would actually have a situation where the Province of Quebec would be trying to come into NAFTA under the same rules that would apply to one of the South American nations trying to join the North American Free Trade Agreement. It is a very serious issue, particularly for a company who has a lot of assets firmly nailed to the ground in the Province of Quebec.

QUESTION: *Mr. O'Grady:* What is the status of the Ontario challenge to the NAFTA and the Courts? If the provinces were to win that ultimately, what would be the extent of the province's ability to in fact defeat the NAFTA with non-trade barriers?

ANSWER: *Mr. Thomas*: They have not yet filed. They took it up with counsel, but they really did not want to hear it. The last I heard, they said they were reviewing their options as to whether or not they were going to file in reference to the court appeal.

COMMENT: *Mr. Fry*: If they were to file it and then were to win the case, that would certainly open up some new doors. Some of the agreements that we have, both multilateral and continental in nature, would basically say it is up to the National Government to achieve compliance. If it is unable to do so, that would be in violation of certain accords and sanctions could be imposed upon the nation-state. So it would be a very interesting case to follow.

Going back to the Labour Convention's case, provincial advocates are basically saying that there are things that fall within provincial jurisdiction, and that Ottawa simply does not have the right to enter into international agreements that fall within provincial jurisdiction, at least without prior provincial approval. If such a challenge were to succeed in the federal court system, it would be very interesting to see what would happen in terms of Canada's commitments both to the GATT and to the NAFTA.

COMMENT: *Mr. Robinson*: To follow up on Chris' comment on the status of the case and the political posturing on Ontario directives, the reason that it has not been filed is that the province knows that loose labor convention lawyers and Constitutional experts of Canada would not be upheld by this court in the 90's. I just do not think they are going to do it in court. If they do it then that will be the end of some of our Constitutional problems. There are a lot of federalists in Canada who wish they really would get on with it and stop all of this political nonsense.

QUESTION: *Mr. Doh*: Just a quick comment on the Quebec situation and then a question for Earl. Quebec has mentioned that joining to NAFTA would be somewhat automatic, if Quebec were to separate, but I think the U.S. has tried to hint, without coming right out and saying it, that would not necessarily be the case. And I think the Federal Government of Canada has also hinted the same thing.

The U.S. concern, though, was more of a specific one, which is that many of the practices that are currently placed to Quebec would violate the NAFTA were Quebec to even be considered to be a sovereign state under the agreement. So I think the U.S. would be looking for certain modifications in those practices, notably in some procurement area licensing services, investment and others.

Earl has indicated that Canada has done a much better job in involving the provinces in the development formulation of trade negotiation and trade objectives. I have two questions: One, is this system transferable to the U.S., where we have 50 actors, just in terms of mechanics? And secondly, given the opposition that Ontario and B.C.

ultimately have shown to the NAFTA and the reservations in other provinces, is the Canadian system really successful in terms of its effectiveness?

ANSWER: *Mr. Fry*: In terms of the first comment about Quebec, I agree that there were certain things that Quebec can now do as a subnational government, that it probably would not be able to do as a sovereign government, because Quebec would be subject to additional forms of retaliation. In terms of the consultation process, Canada put in place a very formal process under the Canada-U.S. Free Trade Agreement, which was carried over to the NAFTA.

The Canadians also used it for the multilateral negotiations, and I think it worked quite well in terms of everyone knowing what was going on. Each provincial representative was able to put in his or her two cents' worth, not always being able to get their way, of course, but at least having been consulted. This allowed them to express their opinions, which may or may not have been taken into account by the federal negotiators.

The U.S. negotiation was much more *ad hoc*. I agree with you that it would be much more difficult to have 50 actors involved than the ten found in Canada. I would work, however, through the National Governors' Association (NGA) and a few other related organizations, to set up a formal mechanism. There is an international trade committee in the NGA that could be the leading player and could hold regular consultations with the Office of the United States Trade Representative (USTR), the Commerce Department, and other relevant federal agencies. I think that process of regular consultations would work. Moreover, it would probably placate a lot of the states, although one must add that the interest was not nearly as great at the state level as it was at the provincial level.

Nonetheless, I think we can probably do a better job because we need to. My notion is that much of what the states and the municipalities are doing internationally is very positive. I am now working with some cities as they try to become more engaged in the international economy and try to protect and enhance the interests of the people whom they represent. Most of the job creation in the United States these days will be at the small and medium-sized business level. From the beginning of the 1980s until the early 1990s, Fortune 500 companies divested themselves of about four million jobs in the United States. Yet during that same period, small and medium-sized businesses created over 20 million net new jobs. What we need to do to become more competitive in the United States is have small and medium-sized businesses engage in international commerce. They need to be exporting. They also need to be producing internationally competitive products. If we are able to achieve this goal, we are going to do quite well in the international trading arena. So this is where the state and municipal

governments can be very helpful.

All 50 states now have seminars on how to export as well as hands-on assistance that can be provided to the small businesses just getting acquainted with the exporting process. Once we get into the realm of export financing, most of which is now in the form of loan guarantees — not direct loans or direct grants, but loan guarantees — we are getting into a grayer area in terms of whether that activity constitutes an export subsidy. In other words, is it a subsidy when the sub-national governments are putting up money to help a company to export and to become more competitive? I consider the “how-to” seminars which help small and medium-sized businesses start to think continentally and globally, a major step in the right direction. If we carry it too far, however, then we may be getting into some difficulties in terms of direct financial incentives and inducements given to small and medium-sized businesses willing to export. I think that we need to look at that issue very closely.

COMMENT: *Mr. Champagne*: As a Quebecer, I would like to speak about the vision that you expressed, which is quite clear when you seem to discard Quebec. The question about the NAFTA is not as clear as it may seem to most of you on the panel; you seem to say “sorry, Quebec.” Perhaps the secession of Quebec and the question of the treaty is not as clear as you say.

There is a view that the state will succeed to that agreement. But I wish that maybe the United States and Canada will welcome Quebec to come join their team. I think it would be nice to link with Quebec; it may be good or bad depending on what you may believe. When there is business, there is a way of doing it. I think the main thinking of Quebecers and businessmen is that we should start in Quebec and as long as there will be business in the United States or Canada, there will be a way to do it. Perhaps that is the main thinking down in Quebec on that issue, which may, as I said, be good or bad depending on what you believe.

COMMENT: *Mr. Fry*: Since I am not a government official, I can speak my mind. I think that if Quebec were to separate, Quebec would eventually be invited to be a part of either a Free Trade Agreement with the United States or part of the NAFTA. I just think it makes sense in the long term. But there would definitely be some trade and investment-related issues that would have to be worked out in advance.

We should also recall that among the staunchest supporters throughout Canada of both the Free Trade Agreement and the NAFTA were the people in Quebec. So if Quebec does eventually separate, this pro-free trade bias of the Quebec people should be kept in mind. However, according to the NAFTA Agreement, if you are going to add new members, you must have the prior consent of the three original partners. On the other hand, each nation is free to enter into a

bilateral agreement with anyone else. Mexico has recently entered into such arrangements with Colombia and Venezuela. But in terms of the NAFTA itself, it would require the approbation of the three original members, including Canada.

There will be a meeting in Miami at the end of 1994 to talk about hemispheric free trade. Many people are speculating that Chile will be next in line for negotiations with the NAFTA, and then we do not know where we would go from there. But if Quebec were to separate and there were very harsh feelings on the part of the rest of Canada, Ottawa could postpone giving its approbation until such time as a *modus operandi* were worked out between Quebec and the rest of Canada in terms of their own bilateral economic relations.

I believe that the United States would prefer to have good relations with all hemispheric partners, and particularly North American partners, so down the line something would be worked out between Washington and Quebec City. Nonetheless, there are some trade irritants to be worked out and this would require a period of negotiations.

Again, that is just a private view. I agree with you that Quebec is basically open for business. It has also been strongly supportive of continental agreements and this should be taken into account if Quebec ever separates from the rest of Canada and then seeks closer economic ties to its North American neighbors.

