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Discussion

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Discussion Following the Remarks of Dr. Stuart Smith and Mr. Donald McFetridge

QUESTION, Professor King: Dr. Smith, you mentioned a memorandum of understanding which you look at as being an attractive path to follow with these companies in terms of their future in Canada. What kind of leverage have you got to have to achieve this memorandum of understanding, or is it a totally voluntary thing? How do you get there?

ANSWER, Dr. Smith: The main lever has been government procurement. Westinghouse, for instance, wanted to sell some turbines to Ontario Hydro, if I'm not mistaken, and the agreement was that they could do so only if they let their Hamilton, Ontario outfit have a mandate on those particular turbines. What happened next was that the Canadian engineers actually improved the turbines and, whereas the product life was thought to be coming toward an end, they found a new use for them in pipelines and things of this kind. Therefore, it became quite a successful operation.

The case of Pratt & Whitney was, again, a procurement arrangement with, perhaps, some grants as well. Certainly the second round of Pratt & Whitney had some grants. Bell Helicopter was a case of both procurement and grants.

Generally speaking, Canada has not given people exemptions, nor has it allowed them to ignore environmental conditions, as some countries have done to get special arrangements. A memorandum of understanding usually involves large research grants or procurement guarantees. Now, I can be corrected by a lot of people here that know more than I do, but that's my understanding of the ones that have been successful so far.

QUESTION, Professor King: On these big NATO contracts, frequently the United States will sell a lot of military equipment to a country such as Canada or Australia. There is a concept involved in such procurements, namely that of trade offset. To what extent can trade offsets alleviate the situation or have they already alleviated a difficult situation? Do they weigh very heavily or are they one factor amongst others?

ANSWER, Mr. McFetridge: We have used offsets quite a bit. My problem with them is everybody else uses them also; so Canadian firms are obliged when they try to sell to Europe to give the same kind of thing.

They have been used a lot by provincial governments and government utilities. A number of companies have benefited greatly from the use of offsets and, of course, procurement is very important, as Dr. Smith has said. SNC, Lavalin and a number of other companies have been en-

couraged by Hydro Quebec. This is a very good example of fostering the development of new firms.

On the other hand, Bombardier is obliged to build subway cars in Vermont for the New York order. Two countries can play the game. I guess we will all play it, but I don't think there is anything to be gained there.

QUESTION, Mr. Keon: I have always respected Don McFetridge's work, but I think I disagree with one comment that he made about the so-called "use it or lose it" provisions of the intellectual property statutes.

I tend to feel that is a bit of a misnomer. The provisions allow the Canadian government commissioner of patents to issue a license to someone else if you come to Canada, take out a patent and choose, for whatever reason, not to use it there. However, you don't necessarily lose the patent. You are only forced to give a license to someone else to try to use it.

Now, if Canada proves to be a high-cost source with the good, well, so much the worse for the licensee. But I don't see that the patentee necessarily loses the patent in that sense.

QUESTION, Mr. Bradley: I have a question for Stuart Smith who said something that I may have misinterpreted, but I found quite surprising. He said something to the effect that scientific knowledge can be legitimately controlled, and I want to know if he's arguing that there is a historic distinction between scientific knowledge and technology: is science a free, open, nonproprietary endeavor as distinguished from technology, something that is developed, has value, and is salable? Should these distinctions be narrowed or should they not be challenged? I happen to think they should be challenged, but I would like one clarification or two answers to my question.

Secondly, we have spent time looking at whether Canada is an interventionist, or should be more or less so, in the science and technology and research and development areas. I would like to see some discussion of the level of intervention in research and development; and some discussion of restrictions on transfers as a result of research and development in the United States, including procurement, the shielding of certain R&D and those kinds of things.

ANSWER, Dr. Smith: I'll answer your first question. You are asking for a clarification—whether I think that the distinction between science and technology is breaking down. Yes, I am saying that it is.

You are saying we should resist it and I guess I'm saying we cannot. This may sound like technological determinism to you. It may sound like defeatism. When it comes to knowledge, it's the only thing that I don't know how to reverse. When I was a kid, I always thought everything could be undone, except when you found something out, because

there is no way of pretending you never found out. I think that is what happens with knowledge.

I just don't believe that we can reverse it. I think what we should be doing now is coming to terms with what this means for universities, the publication process, and the scientific interchange process, and try to do what we call in politics, damage control.

There are parts of science and technology where what I said don't apply, where there is still an enormously long period—maybe 100 years in some instances, between something being discovered and any possible application of it down the road; for example, astronomy or advances in botany.

All I am saying is that there are some fields where that difference between science and technology, that lag between discovery and a commercially valuable application, disappears. In some cases the lag is a negative quantity. For instance, you can make a lot of money if you have a biotechnology company where you promise to do research and discover something that you don't even know yet. That is how valuable some of this knowledge can be. An advance in industrial materials, something a crystallographer might discover about the molecular shape of certain kinds of substances, which in the past would have been about as basic and dull as you imagine, can be turned into an industry literally next week.

There are crucial keys that are just being waited for. For instance, how to deal with the brittleness in ceramics. Anything on that subject will immediately be translated into an enormous benefit and possible upheaval of untold proportions in, let's say, the metals industry. We have reached that point. Resist it? I wish we could. I think what we have got to do is damage control at this point.

On your other point about the Americans having various ways in which they protect their intellectual property, all I can say is they do and they are very secretive in many ways. The importance for Canada is not to feel so guilty when we intervene a bit, and more importantly, if we do negotiate free trade with the United States, we better understand what the U.S. does. It's awfully hard to be told that you have the right to bid equally with everybody else on some type of contract if, in fact, you are not allowed to attend the briefings and you don't have access to the required data. It's not really a level playing field as our American friends like to tell us. All of that is grist for the negotiating mill. We have to make sure that our negotiators understand that.

QUESTION, Mr. Fried: My question is for Dr. Smith. It should also be for Mr. Beigie, but he's gone off so I leave it to you. We have heard from both of you on the importance of a link between technology and investment. I'm not yet convinced that you have taken us to the third part of the matter, which is the trade aspect. It strikes me that the tenor of the debate on the trade agreement, either with the United States

or with the rest of the world, is to open trade channels; to be less of an interventionist regarding trade rules; to have less subsidization; to have fairness in procurement and national treatment, as defined in the GATT since 1947; and so on.

On the other hand, both you and Mr. Beigie are arguing for a government role in making the economies of scale more dynamic. If, in fact, the end result of either the bilateral or multilateral negotiations is to open trade channels, but at the same time limit the ability of either government to subsidize or intervene in a manner that would be defined a subsidization or to leave procurement on an equal footing basis (putting aside the defense related restrictions), is one not left with only the economy of scale?

If in an open-border arrangement, a multinational or American parent had the choice, it surely is going to choose the route of rationalization of a branch plant rather than a world product mandate, if, in that agreement, all you have done is open the border and at the same time circumscribe the role of government in the market. What should be done in a bilateral or multilateral negotiation to, at the same time, limit government's role in distorting trade flows, while opening the government's role for technology flows, if both governments are using the same rules to apply to both?

ANSWER, Dr. Smith: Let me put it more simply. Not to suggest that you have elaborated unnecessarily, but I would say that the question is how do you keep nontariff barriers and have free trade at the same time? If you give up your nontariff barriers, then how can you talk about a national industrial policy of some kind?

Well, my point is that it's not my idea to chase after bilateral free trade with such enthusiasm. I would have preferred an industrial policy using our own nontariff barriers effectively to build us up and then to enter the contest. I hate to get in a boxing ring when I'm in rotten condition. If I know that the ring may be level, but the guy coming in against me is going to kill me, I would prefer a little training time at the very least. I'm not the guy running after bilateral free trade. In fact, if we think bilateral free trade is a substitute for industrial policy or if we think that that's going to automatically orient our industry better than any industrial policy would have done, I don't agree. Every other small country and, I would say even large countries like the United States, have had to use government and non-trade barriers to get into certain niches. We are the only country that is actually running a trade deficit in every single high technology sector! Everybody else has at least a couple of areas where they are running a surplus.

I was not running after bilateral free trade, but given that the American procurement market, including defense, is so much larger, equal access to that might be worthwhile, even if it means we cannot have my preferred industrial policy. But I don't believe for half a second that there is any chance in the world that we will be given equal access in that

sense. There is no way the United States can allow its defense department to be that open. There is no possibility that we are going to get access to all that data. The playing field will never be totally level in that sense. The best we can hope for is an overall agreement with the U.S. where we do get to keep some of our own non-trade barriers to balance the degree to which the United States is obliged to keep us out.

So the statement coming out of the Science Council says either we get genuine national treatment on both sides in total, or we get the right to apply in Canada an equivalent amount of non-trade barrier protection that the United States is maintaining for itself, and not necessarily the identical type of protection.

In other words, if the United States says, "Okay, you protect your jet bomber industry," that's no good to us. It's got to be where we can use it. If we can get it, we will accept genuine national treatment. I'll give up my hope of a national policy and agree under those circumstances that Mr. McFetridge and his people are right. But I don't think we will ever get that. What I'm saying is let's make sure we don't give away the one hope that we have of refurbishing ourselves for the future, in exchange for access to an economy that will not be genuinely open to us.

QUESTION, Mr. Hayhurst: Do we really have to paint a picture to the Americans that they are our only hope? Is there not some alternative left to us?

ANSWER, Dr. Smith: I'm wondering why we have to court somebody that we are already so deeply involved with. The United States has 80% of our exports. I mean, how much further involved do we want to be? What we have to start doing is figuring out how we are going to get exports to other parts of the world. I agree with Mr. Beigie, that we never really did make an effort on that third option. I disagree fundamentally with the people that wrote the portion in the Royal Commission Report saying that we tried the third option and it failed, so let's agree that the U.S. is the only way that we can go.

I agree that the Canadian businessmen tend to think that the U.S. is their only possible place of export, but they have got to change their habits. They have to get out there and learn what it is like to do business with, for example, Korea. I have been stimulating a couple of people to create a trading company between Canada and Korea. I think there is a good chance that it can happen. They are now trying to get some banks and some big companies involved. That's the kind of thing that we have to do. Get our people used to dealing with these other countries as that's where the economic growth is.

The other thing that the Royal Commission says is Canadian businesses have to approach the other countries. Previously, Canadian businesses had to start with the U.S., and would then go elsewhere once they have gained a certain expertise. We all know examples where that has

happened. But often the product lines that we end up producing for the American market are not necessarily the ones that are going to be sold in Korea or Japan. I don't like having all of the eggs in one basket. I don't like being so dependent on one market, and I sure don't like announcing to my trade negotiating adversaries that I'm totally dependent upon them before I even sit down to the negotiations!

QUESTION, Ms. McCarney: I had a question for Professor McFetridge. He mentioned the whole issue of global product mandates, as part of the package in the free-trade negotiations of a liberalized trade negotiations in North America. If we do away with the whole concept of NTB's and attracting foreign investment to Canada on a prospective scale rather than looking backwards, as Stuart Smith did, what incentives have we got? What incentives have we got left in our purse to offer to the foreigners if we give up the NTBs; and, on its own, what has Canada got that is going to cause a company to locate here in a free-trade arrangement as opposed to the U.S., given the higher unit costs in Canada, energy costs, the less desirable proximity to market and all of the other things that go into an investment decision?

ANSWER, Mr. McFetridge: There are a couple of people at the University of Western Ontario, such as the Wynecots and Rick Harris, who have made a long career out of studying the locational effect of various trade arrangements in North America. It's high quality work done by economists, and it predicts pretty unequivocally that there will be a fairly significant expansion with free trade with the United States within the Canadian manufacturing sector. We would not just be rafting logs across the border. Southern Ontario would do handsomely, but you are going to have trouble with Cape Breton. But don't you think we have trouble there now?

QUESTION, Ms. McCarney: My question wasn't that. My question did not concern the existing manufacturing facilities, and I agree some of them will grow to great advantages assuming they have got the capital for expansion into the bigger market. Looking prospectively at attracting new investment to Canada from Europe or the Pacific, and having them locate their plants in Canada for job creation, as opposed to the United States, my question concerns whether we have entered into a free-trade arrangement where it doesn't really matter?

ANSWER, Mr. McFetridge: We could have a much better chance of attracting them than we do now. Obviously you have no access now, no guaranteed access. I think you are much better to be inside the wall where you participate in a pro rata fashion.

I think Dr. Smith's arguments are quite correct in that it's not clear that we have hitched our wagon to a horse that is necessarily all that healthy. There is a lot dispute about how well the U.S. economy is going to do relative to a number of other economies, but I think the question is why are we going to get any of the European investment? My answer

would be that we would get a lot more than we would under the present circumstances.

QUESTION, Ms. McCarney: Can you just tell me why?

ANSWER, Mr. McFetridge: Because we would then be inside a North American free-trade area. Right now you invest in Canada and you have access to something under 10% of the North American market.

COMMENT, Ms. McCarney: I would go to Texas.

COMMENT, Mr. McFetridge: You might. That's certainly true, but your chances of going to Texas are less with a North American free-trade arrangement. I'm not saying that you wouldn't go to Texas. Maybe I would too. But it has to improve our circumstances. It has to make them work.

QUESTION, Mr. Knopf: My question is addressed to Professor McFetridge. You started off, I believe, by talking about how Canadian government might intervene more in the area of intellectual property and it struck me that you made many important points, but they all arguably had more to do with competition policy than intellectual property.

As everybody here knows, we have a competition bill in second reading and we have a copyright bill days, weeks, months, or somewhere nearby, and a possible patent act reform. These things are all very timely and, of course, we try and maintain a dialogue with the intellectual property people and the competition people, to make sure that each side of the specialty does not miss out on any important points. But it strikes me that there are many particular goals that can be accomplished on either competition law or intellectual property law that get you to the same place, but in a much different way.

This metaphor has come and gone several times in the conference; but in order to get somewhere, you have got to know where you are going. Even though the bottom line might be the same, the prospective is quite different. The process is quite different, the kind of expertise it has brought to bear is quite different and the timing might be quite different.

The U.S. has a radically different kind of competition law than we do. I suspect our intellectual property laws are much closer than our competition laws. Given that, are you really suggesting that competition law is the place to deal with these things, or would you rather see it dealt with in an intellectual property law?

ANSWER, Mr. McFetridge: These are basically competition issues that relate to the scope of the patent right. Essentially, I think, there is a complication in that the patent is a legal monopoly granted for purposes of providing incentive to invent. You are always looking at how good it is. Is that incentive sufficient? That is a question that is more or less unanswerable. But in terms of the scope of the patent rights, essentially it is a competition policy question and that certainly is where the restrictions on the rights of patentee have come. It is my understanding that in

the United States they have come from Sherman Act decisions or Clayton Act decisions, so it is a competition issue.

QUESTION, Mr. Morrison: I think a good deal of the discussion of industrial policy or state intervention assumes a fairly stable trading policy and framework, which would remain in place whatever Canada may do in terms of either more or less intervention and subsidization of industries. But I'm not sure that is exactly the case as we approach a new trade round. If countries generally are inclined to be more protectionist, more interventionist, or use more subsidization approaches, I can't see where the new trade round will go in terms of producing more opportunities for finding more niches for U.S., Canadian and third country innovations and marketing skills.

My question is, are we at an important juncture or are we on a fairly stable plateau as we approach these negotiations? My personal inclination is to think we may well be at a watershed, either opening up substantially new opportunities or closing down those opportunities which now allow 80% of Canadian exports to reach the U.S. market.

ANSWER, Mr. McFetridge: Your question brings up a number of issues and I'll comment on some of them. First, when you negotiate elimination of tariffs, you face nontariff barriers; then you negotiate the elimination of standard nontariff barrier quotas, but you are still confronted with the less observable ones. Given that the world is not going to change, countries are always going to try to get a leg up on each other and subsidize exports in some way. My guess is that we will keep chasing the less and less measurable distortions in trade and the attempts by government to subsidize. It will be a costly process, but I think that it certainly is going to occur.

I'm not sure what you mean by a stable environment. The world is not a very stable place, and whether or not we have tariffs, I don't think that changes very much the level of stability.

COMMENT, Mr. Morrison: I would agree with regard to tariffs. They have been lowered substantially, but I think we are now approaching a number of other issues which involve services and investments. There is a high risk that the body of participants in the negotiations is inclined toward the Brazilian model of protecting industries or subsidizing new industries. We in the United States have our own problems in these areas. But if we go toward more industrial and mercantilist policy approaches, I think we will not be able to assume that we can protect the existing openness of the system.

We may have a failed negotiation and may then have enormous costs imposed on all of us by the resulting reaction and protectionist activities. It seems to me that Canada has always been a key country in dealing with these kinds of worldwide system approaches. Certainly the United States listens to Canada. Perhaps we don't listen as much as Canada would like, but we do listen a great deal on those kinds of questions.

COMMENTS, Mr. McFetridge: Well, certainly adoption of mercantilist policies, whether they relate to tariffs or other types of policies, are a threat to the international trading system and to free trade. A lot of people have argued that quotas are not such a bad thing, but economists can get apoplectic about them. But temporary tariffs silence domestic opposition among the victims of some type of change in prices internationally and they can be quite functional. Then you move to something else that is probably less functionable, but less observable and not prohibited, however, you are not necessarily better off.

Governments are going to continue to try to do these things and they just try to do them by less and less observable and effective means. You might end up with everybody believing that they would be better off if we allowed quotas, temporary tariffs, or things like that. We are a long way from any kind of a system which says that none of these things will be allowed.

QUESTION, Mr. Sprung: I hesitate to go on with it too much longer, but I wanted to take the opportunity to make a two-minute speech, especially since Consumer & Corporate Affairs people are here, and I've been after them for quite some time. I want to pick up on some things that Stuart Smith said. He talked about the desirability of having nationalistic capitalists in Canada and I tend to agree that we would love to have them, but our history in Canada has been to discourage people like this.

In 1980 I invested a lot of money in oil companies in Canada. In 1981 they brought out the national energy program and the value of my shares dropped a considerable amount overnight, which also says something about the government as a leader picking out industrial things to interfere in.

Another thing Dr. Smith said was that in this high technology world, if we are used to being a branch plant dealing with natural resources, how do we get from there onto a high plateau in technology? Actually, I think we are there and the big asset that we have in Canada is we have a very highly-educated population.

One industry that I'm familiar with can be a real winner for Canada—the software industry. We write extremely good computer programs in Canada. We are right up on computer technology. The University of Waterloo, where I come from, graduates 25% of the computer science graduates in Canada, and our University ranks certainly among the top five, if not the top three, in North America in terms of mathematics and computer science.

We have been after the government to do a simple thing to update the copyright law in Canada in order to get copyright protection to computer programs. We have been after them and lobbying them for two years. All of our major trading partners have done this. All it takes is a

simple quick fix amendment, but there are a million excuses why they don't do it.

I guess my point is this, we want to level the playing field for Canadians. We have the educated population. We have the people with the ideas. All we need is a government to set the proper legislative environment and then just step back after the rules are made and let us go to it and make our way in the world. If they would only concentrate on providing the right environment for us to do that, then all of these other subsidies and tax incentives to losing industries would be completely unnecessary.

QUESTION, Mr. Jackson: I hate to see this meeting finished without dealing with a question. The last question came very close to it. Dr. Smith stated that we don't have enough national capitalistic investors in Canada, and that is precisely the problem. But the legislation that deals with who will be investors has not been mentioned as yet—and that is the corporation law.

The structure of corporations which provides that investors get the entire benefit of their investment is an out-of-date concept for Canada. It's even out-of-date in the United States; likewise, it's out-of-date in Europe where it's been changed to allow participation of employees, unions and communities in regard to where investments come from and the hiring and firing of employees.

I wanted to ask Dr. Smith if anyone has thought about changing the basic corporate structure so that people who will benefit from what happens to the corporations, including the members of the community, the workers and the consumers of Canada, have some input into what corporations do and not just investors. What has happened with the way we have corporate law arranged now is that the problems that everyone talks about have come into this country from outside investors.

That was my question. I don't expect an answer now, because it's too late. I just hope that the people that have been talking will think about that question.