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Robert A. Ferchat

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Setting the Stage

Robert A. Ferchat *

I thought I might add a perspective to this Conference that I have gleamed over the years: “Despite everything that you have been told since kindergarten, you are dead wrong if you believe that one plus one is two. In fact, one plus one is three.” And it is every time.

Before you decide that I am wrong, remember that I am an accountant by trade. I make my living, which has been quite satisfactory, based upon my ability to do sums. Even though you cannot balance books on one plus one is three, I still say that one plus one is, in fact, three.

The common answer of one plus one equals two worked for me for many years. It is logical, mathematically pure and the university accepted it. Through experience, I have found that this solution is quite limited, it ignores a fundamental aspect of our three-dimensional reality. If you add one to something else, you do get the sum of those two ingredients, but you also get the relationship of the two original parts.

If you put two rocks together, you have more than two rocks; you also have their relationship. Perhaps one is larger, one is smaller. Perhaps they are separated by a boundary line or pushed together to form a child’s climbing area. Or, perhaps, they are piled up along a wall or a shovel. You do not have the full equation of two rocks until you describe their relationship to each other. This principle is even more dynamic when two people are put together. You simply get more than two people; you get the relationship between them, something that did not exist in their single state. With people and the institutions that people create, their relationship is a living, evolving entity; something that is fraught with risk, but alive with opportunity. If you are still skeptical, think of marriage and its risks and opportunities. Clearly, one and one is more than three when it comes to marriage.

In the context of today’s discussion, we are talking about an equation, in which two separate countries—two human constructs—are pooling their resources to an unprecedented extent. The sum of this equation is much greater than the Free Trade Agreement (“FTA”), and much broader than the words and phrases over which lawyers, economists, politicians and ordinary citizens exercise. The sum of this equation is the opportunity the FTA presents, including that which both component partners can exploit to their mutual benefit.

In this morning’s session we have two different, but related dimen-

* Chairman of the Board, Atomic Energy of Canada, Ltd. (Ottawa).
sions with which to quantify the past and the future. We will spend our first session on the past, by specifically exploring the detail of Chapter 19 with two people who were there at its inception. Then, we will consider the future ramifications of the GATT Uruguay Round and the U.S.-Mexico Free Trade Agreement. In each case, I think we should keep in mind the broader perspective that one and one is, in fact, three. For within this context, it is important to recognize that one of the great frustrations of the FTA is that its promise has not yet been fulfilled.

With the FTA, we are looking at a tremendous and exciting opportunity, but an opportunity that may be lost. However, in today's world, opportunities are never lost, they are found and picked up by others. While we have lost some of the excitement of the FTA's promise in the last year or so, other trading blocks have moved ahead in the trade arena, and the results are beginning to show. Consider the confidence with which the European Community is embracing the promise of 1992. Their expectation is running high, and that confidence has an impact. Continental Europe is talking about a three to four percent range of growth, and Japan and the other tigers of the Orient are also growing, although not as much in the past five years. But what is happening here in North America? While the other regional blocks are pressing forward with their investment and competitiveness for tomorrow's world, here we are on both sides of the Great Lakes, both sides of the 29th parallel, in a recession.

The FTA has been in gestation for a long time. Now, it is more in the nature of unfinished business, much like a child who is brought into the world by her parents, but must be nurtured and encouraged to reach her full potential. One and one is three if we have the wisdom to see it and the energy to pursue it. One of the nine objectives to the preamble of the FTA is that the agreement will "strengthen the competitiveness of U.S. and Canadian firms in global markets." In order to do that, the agreement says that "our two governments must resolve to adopt clear and mutually advantageous rules governing their trade and to ensure a predictable commercial environment for business planning and investment;" predictability, consistency and competitiveness—three by coincidence. All part of this new relationship of one plus one equals three.

As part of the plan to create the kind of environment the agreement specifies, in Article 1907, something must be established to develop a substitute system of rules to deal with unfair pricing and government subsidization. That is why we are here today. This is the kind of detail that will underpin the success of the bigger equation.

In response to Article 1907, the private sector, from both sides of the border through the work of the Committee of Canada-U.S. Relations of the U.S. and Canadian Chambers of Commerce, has put together a paper which outlines a replacement regime identified in Article 1907, clause 1-B.

The authors of this paper, Ivan Feltham, Ronald Wonnocott on the
Canadian side and Stuart Salen and Robert Mathieson for the Americans, had one overarching priority: To put on the table a plan for predictability, a no-surprise approach to transport a trade that would improve the environment for business confidence. Before we talk in detail about the issues involved in Article 1907 and in the task force report, we thought it would be useful to pause briefly to consider the history, and hear from the people who were here when Article 1907 was negotiated.

We are privileged to have with us today three gentlemen who were in the middle of creating the original excitement. William Merkin is a Senior Vice President (International) of Strategic Policy, Inc. in Washington, D.C.—a highly specialized firm founded upon Bill's unique abilities. He has been involved with trade issues most of his professional life. For most of the 1980s, Bill was in the office of the U.S. Trade Representative, and from 1985 to 1989 he was Deputy Assistant Trade Representative for Canada. In that role he served as Deputy Chief Negotiator for the FTA, coordinating the All-American Interagency preparations, consulting with members of Congress and leading the U.S. Team in discussions on automotive and alcoholic beverage trade.

Among his many positions, Bill was Director of Canadian Affairs from 1981 to 1983 and Deputy Assistant U.S. Trade Representative from 1983 to 1985. He also represented the United States during the Uruguay Round of Multilateral Trade Negotiations in Geneva.

Representing the Canadian side of the negotiations is Jonathan Fried. Jonathan is Counselor, Congressional Legal Affairs with the Canadian Embassy in Washington. Jonathan is a career officer in the foreign service with Canada's Department of External Affairs. Before coming to Washington, just over three years ago, he served as Assistant General Counsel with the Canadian Trade Negotiations Office, and as part of the FTA Team. Going to Washington was his reward.

Previous assignments included Legal Counsel in the Canadian Embassy of Brasilia, Assistant Secretary of the Delegation at the Ottawa Summit and Delegate to the United Nations Sixth Legal Committee. Jonathan has taught law at the University of Toronto, Georgetown University Law Center, University of Ottawa, and the Norman Patterson School of International Affairs at Carlton University in Ottawa.

We are also fortunate to have William Cavitt, a twenty-four year veteran in the U.S. Department of Commerce. Bill is an International Economist, Director of the Office of Canada Commerce, and in that role he is Staff Adviser on International Economic Trade Investment and Commercial Policy Issue affecting our two countries.

Bill was also a member of the U.S. FTA negotiating team and the U.S. Representative to the GATT and the OEPB and many other bilateral and multilateral consultations and negotiations.

Among other assignments in his sixteen years in the Office of International Trade Policy, in which he became Director in 1980, Bill has
been a Director of the Office of Mexico and the Caribbean basin and a Senior Policy Adviser to the Deputy Secretary for the Western Hemisphere.