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“Business’ Role in North American Governance: Free Trade, ‘Smart Borders’ and other ‘Big Ideas’”

Introduction

Students of regional integration might have expected that processes of economic integration in North America would lead to an emergent form of continental governance. To be sure, most theories of regional integration assume a process beginning with an integrative dynamic and ending in some form of political union.² Functionalist and neo-functionalist schools of thought, for example, draw a causal chain between common human needs (functionalism) or increased social interaction in particular economic sectors (neo-functionalism) and the creation of supra-national institutions.³ Similarly, the liberal interdependence school of the 1960s and 1970s predicted that increased “interdependence” – i.e. a deepening of trade, investment, and monetary ties among countries – would lead to the creation of international institutions to manage relations under conditions of “complex interdependence.”⁴ While supported by empirical

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² For a review of the literature that covers four theories of political integration, see David Mutimer, “Theories of Political Integration,” in Hans J. Michelmann and Panayotis Soldatos eds., (1994) *European Integration: Theories and Approaches*, Lanham, Maryland: University Press of America.

³ In between this causal chain, functionalists postulate a process of “functional self-determination,” while neo-functionalists, a process of “spillover.” On functionalism, see: David Mitrany (1966) *A Working Peace System*, Chicago: Quadrangle Books; and, James Patrick Sewell (1966) *Functionalism and World Politics*, Princeton, N.J.: Princeton University Press. On neo-functionalism, see: Ernst Haas (1958) *The Uniting of Europe*, Stanford, Calif.: Stanford University Press; Ernst Haas (1961) “International Integration: The European and the Universal Process,” *International Organization*, 15 (Summer): 366-392; Ernst Haas (1964) *Beyond the Nation State: Functionalism and International Organization*, Stanford California: Stanford University Press, (especially chapters 1-4); and, Leon Lindberg (1963) *The Political Dynamics of European Economic Integration*, Stanford, Calif.: Stanford University Press.

⁴ The logic behind transnational interdependence is straightforward – increased interdependence was believed to draw national economies closer together with the overall effect of undermining national economic policy autonomy. As each country faced a wider array of disrupting economic forces over which it had decreasing control, the simple need to manage relations of “complex interdependence” ensured that international/intergovernmental institutions would be created. See for example: Richard Cooper (1968) *The Economics of Interdependence*, New York: McGraw-Hill; Richard Cooper (1972) “Economic Interdependence and Foreign Policy in the Seventies,” *World Politics*, 24(2): 159-81; Karl Deutsch and Alexander Eckstein (1961) “National Industrialization and the Declining Share of the International Economic Sector, 1890-1959,” *World Politics* 13(2): 267-99; Robert O. Keohane and Joseph Nye, Jr.

developments in Western Europe (e.g. the Treaties of Paris 1952, Rome 1957, Maastricht 1992, Amsterdam 1997, and Nice 2001), the current state of regional integration in North America presents scholars with a curious anomaly. Indeed, one of the most intriguing conundrums of North American integration is that despite relatively high degrees of economic openness, social interaction, and correspondingly high levels of interdependence,⁵ one finds little evidence of formal institutions of continental governance.

Within the context of this empirical puzzle, and as part of a broader study of North American governance, this paper addresses the fundamental question – how is North America governed? – via an analysis of business-government relationships. An examination of the business-government nexus provides a powerful analytical lens from which to examine the continental governance of trade, investment, and border security policy in North America. In contrast to some other papers in the volume, our analysis highlights the extent to which emerging forms of transnational governance are not just consequences but also a cause of North American integration. Indeed, the contemporary dynamics of trans-border politics in North America, for instance, silent economic integration, have not only evolved from but have actually re-shaped traditional inter-governmental relations. While shedding some light on the extent to which integrative forces have changed the nature of trans-border governance on the continent, our analysis also examines the prior question of how trans-border politics led to the creation of the Canada-U.S. and North American Free Trade Agreements in the first place. We find that trends creating one continental market have given transnational corporations (TNCs) an increased role in shaping the national public policy agendas of the three member countries and by implication, have allowed business to participate directly in North American continental governance.

In the following section, we argue that an analysis of the business-government relationship is essential for understanding processes of “governance” in North America. Next, we demonstrate the instrumental role of “big business” in Canada and Mexico during two important moments in the evolution of North American governance. First, in the negotiation of the Canada-U.S. Free Trade Agreement (CUFTA, 1986-1988) and the North American Free Trade Agreement (NAFTA, 1991-1992); and, second, in the processes leading up to and during the negotiation of “smart borders” following the terrorist attacks on 11 September 2001. We argue that the entering into, as well as the very CUFTA/NAFTA and “smart border” negotiations themselves, and their outcomes, are incomprehensible without a proper understanding of the private sector role. We conclude with some reflections on the implications of our analysis for thinking about the nature and content of governance in North America.

(1972) *Transnational Relations and World Politics*, Cambridge, Mass.: Harvard University Press; Robert O. Keohane and Joseph Nye Jr. (1977) *Power and Interdependence: World Politics in Transition*, Boston: Little Brown; and, Kenneth Waltz (1970) “The Myth of National Independence,” in Charles Kindleberger, ed. *The International Corporation; a Symposium*, Cambridge, Mass.: Massachusetts Institute of Technology Press.

⁵ Reflected in the \$6.3 trillion in estimated annual economic activity, North America is one of the largest, most interdependent regional trade blocs in the world.

Conceptualizing “governance”

For our purposes, and in contrast to popular usage, this paper adopts a linguistically conservative definition of what we are calling “governance.” Consistent with other work in the volume, we distinguish acts of governance from acts of government. When speaking of *government*, we refer to the exercise of power through “...the institutions and processes of legitimately sanctioned (usually democratically based) public policy-making, regulation, adjudication, and enforcement”⁶ within a territorially defined, hierarchically organized, sovereign nation-state. In contrast, our conception of *governance* is reserved for those decision-making processes involving “...the exercise of power and influence outside or on the boundary of government structures, through [heterarchical]⁷ interactions among political, economic, and social actors”⁸ whose power and influence vary depending on the level of analysis and issue area in question.⁹ When a business association interacts with a municipal, provincial/state or federal government official for the purpose of influencing policy, for example, it is engaging in what we are calling governance.¹⁰

Conceptualized in this way, governance can take place at several levels. Below the nation state, *domestic* governance occurs where domestic social forces, interest groups and governments interact in the making of public policy. The creation of the Canadian Manufacturers Association (CMA) in 1871 for the purpose of lobbying the Canadian government against free trade with the United States and for the implementation of measures that would protect Canadian industry is a good example of this traditional form of governance. With globalization, a somewhat newer form of governance has emerged. By *transnational* governance we refer to instances where transnational social forces, foreign interest groups and national governments interact in the making of public policy. The interactions among the WTO intellectual property regime, pharmaceutical TNCs and such CSOs as *Médecins Sans Frontiers*, discussed in Anne Swift’s chapter,¹¹ is a good example of such transnational governance activity. Finally, we can speak of a third form

⁶ Stephen Clarkson, “An Elusive Problem: Distinguishing Government from Governance to Analyze North America,” preliminary introduction to the volume, paragraph 5.

⁷ Unlike processes within government, the organizing principle is not hierarchy but heterarchy, i.e. where no single actor is dominant at all times; where the lines of authority are blurred; and, where multiple orderings exist depending on the context or policy area.

⁸ Ibid. paragraph 18.

⁹ Though policy-making remains the prerogative of the various levels of government comprising a nation-state, we may speak of governance when non-state actors, whether exercising their power at home or abroad, impinge to a greater extent or in new ways on the state’s processes of decision-making. Clarkson, “An Elusive Problem,” paragraph 18.

¹⁰ Though what we are calling governance might be included under the study of ‘interest group politics,’ governance is much more than traditional forms of lobby group pressure. Processes commonly labelled “globalization” have reconfigured socio-economic relations such that private actors – whether TNCs or CSOs – now have greater capacity to regulate their own members internally, and also have greater external influence as a result of their national and transnational lobbying campaigns.

¹¹ See paper by Anne Swift, “Discerning Manifestations of Continental Governance in the North American Pharmaceutical Industry in the Context of Intellectual Property Rights,” paper submitted to Professor Stephen Clarkson, September 18, 2003.

of governance, namely, *supranational* governance, which occurs when supranational decision-making bodies, independent of national governments, induce policy changes on nation states “from above,” or when organized social forces and groups lobby supranational bureaucracies “from below.” Examples of supranational governance include when a WTO trade panel finds that a country’s policies are inconsistent with its rules, or, when European Business Associations lobby the European Commission in Brussels.

Mapping Governance in North America

Central to our conceptualization of governance is an analytical distinction we draw between actors and processes. *Participants* in governance can come from government, business and civil society, and include elected officials and their staff, career bureaucrats, business people/organizations, academics, and civil society groups. *Processes* of governance, on the other hand, refer to the structures – formal and informal – through which participants are included in the collective decision-making and norm-setting that occurs among these networks of participants, at various levels (i.e. within actors, at the national level, and at the transnational – global/continental – level). Since the different actors can participate at various levels of decision-making/norm-setting *simultaneously*, our distinction between actors and processes may be less clear-cut in practice. Conceptually, however, we find it useful for mapping the empirical terrain of domestic and transnational governance in North America, defined here as the making of collective decisions and setting of norms outside or on the boundary of government, at national and transnational levels, where no clear authority, formal institutions, or organized hierarchy exists.

Defining Governance in North America

To say that North America lacks formal structures of continental governance is not to say that North America is not governed. Given the above conceptualization, and despite a lack of formal institutions, we are able to define governance in North America as *those interactions among various government, business and civil society actors in North America, which steer the continent’s political, economic, and social systems toward collective goals and decisions*. Defined in these terms, the processes leading up to and during the CUFTA/NAFTA and “smart border” agreements can be seen to be rare moments in North American continental governance, in so far as the negotiations brought together political and economic actors (and to a much lesser extent, social groups protesting at the margins) in order to establish new sets of norms governing trade, investment and border security for the continent.

In the following pages, we demonstrate that continental governance in North America does exist, often resembling a “hub-and-spoke”¹² model in which the national governments of the three countries – and the social forces vying for political power and

¹² Ron Wonnacott (1990) “U.S. Hub-and-Spoke Bilaterals and the Multilateral Trading System,” Commentary, No. 23, October: C.D. Howe Institute.

influence within them – are linked together in two major asymmetric dyads (US-Canada and US-Mexico) and one minor symmetrical dyad (Canada-Mexico). The asymmetries implied in this model are reflected in the reality of differential trade dependencies. While 87 per cent of Canadian exports and 89 per cent of Mexican exports are destined for the U.S., a comparatively small 22 per cent and 14 per cent of American exports are accounted for by trade with Canada and Mexico, respectively.¹³ In the case of Canada-Mexico trade, only 0.7 per cent of Canadian exports head to Mexico, while 2 per cent of Mexican exports are destined for Canada.¹⁴ Despite the relative symmetry in the Canada-Mexico dyad, their respective dyads with the U.S. embody a skewed quality, reflected in the different approaches to border management prior to 11 September 2001.

Our analysis of the business-government nexus allows us to demonstrate that North America contains elements of domestic and transnational governance, while the absence of strong institutions prevents any form of supranational governance, either “from above” or “from below.” Interestingly, North America’s institutional vacuum can be explained, at least partially, by the lack of enthusiasm for creating supranational institutions by governance participants, who created a North American trade regime based on rules as opposed to structures of decision making. In sum, despite a lack of formal institutions, governance in North America actually does take place, if only during the episodic and *ad hoc* coming together of national governance participants at the transnational level.

The Importance of Business

In light of the above, the question, “how is North America governed?” is best answered by asking slightly different questions, such as: what actors are involved in the governance of North America? In what decision-making arenas and in what processes do they find themselves? And, in whose interests are decisions made?

When examining processes of North American governance, it becomes evident that of all participants, corporations – through their business associations – play a central role. As participants in governance, business/industry associations exercise power in decision making both internally and externally.¹⁵ Internally, business associations, of which there can be several types,¹⁶ are involved in providing services to members, such as collecting and disseminating crucial information (management services), and establishing regulations for members (e.g. establishing product standards and codes for self-regulation). Associations are therefore able to exert power over members directly in processes of internal governance. On the other hand, and more germane to this paper, business associations provide an external service to members by engaging in government relations activities, which enable corporations to influence public policy *directly*. In their

¹³ Standing Committee on Foreign Affairs and International Trade, *Partners in North America: Advancing Canada’s Relations with the United States and Mexico*, December 2002, pp. 58 & 67.

¹⁴ *Ibid.* p. 63.

¹⁵ Stephen Clarkson, “An Elusive Problem,” paragraph 9.

¹⁶ Lehne (2001) identifies three types of business associations: leadership; trade; and, specialized, respectively. See Richard Lehne (2001) *Government and Business: American Political Economy in Comparative Perspective*, New York: Chatham House, pp.119-126.

external governance activities, associations representing the interests of their members monitor events in the corridors of government and disseminate information about programs to members, and these groups can be involved in lobbying domestic (and sometimes foreign) governments to influence public policy.¹⁷ Moreover, they are sometimes called upon to participate in the actual formulation of a country's economic and security policy, as was the case in both the CUFTA/NAFTA and "smart border" agreements.

Case Studies: CUFTA/NAFTA and "Smart Borders"

In this section we demonstrate that business and government actors¹⁸ play a central role in the governance of North America – which is largely episodic and of a hub-and-spoke nature – through periodic, transnational interactions conducted most visibly at times of crisis, negotiation, and change. We will demonstrate this role through an examination of the role of Canadian and Mexican "big business" (umbrella) groups in the processes leading up to and during the CUFTA/NAFTA negotiations (1986-1992) and in the processes leading up to and during the "smart border" negotiations (2001).

Setting the continental rule book – CUFTA and NAFTA negotiations

The negotiation of the CUFTA and NAFTA trade agreements (1986-1992) surprised many analysts in the 1980s. To be sure, the neo-liberal market reforms embodied in CUFTA and NAFTA marked historic turning points in the evolution of business-government relations in the two countries.¹⁹ Moreover, they contradicted the long-

¹⁷ We define lobbying as any activity undertaken by an interest group (business or other group) to influence the public policy process. For the purposes of this paper, lobbying includes any activity or strategy aimed at influencing government decisions either directly (e.g. arranging meetings with ministers or bureaucrats, submitting briefs to royal commissions or parliamentary committees) and indirectly (e.g. mobilizing interests through communications technologies, advertising in the media to stimulate public awareness/reaction, or funding "think tanks").

¹⁸ Since power in the sphere of governance emanates from the actors' economic strength, strategic alliances or position within a political system (which allows non-state groups to influence policy in their jurisdiction and others), and since business is advantaged by a relatively disproportionate amount of resources, a credible claim to expertise in the area of economics, and a "privileged position" in the political sphere, our study will examine the role of "big business" in North America's continental governance, exclusively. While nothing prevents civil society groups from becoming active participants at international negotiations, such groups were relatively less visible during the two moments in North American governance analyzed here. For classic accounts of business' power in politics, see: Theodore J. Lowi (1964) "American Business, Public Policy, Case-Studies, and Political Theory," *World Politics*, vol. 16: 677-715; and, Charles E. Lindblom (1977) *Politics and Markets: The Worlds Political-Economic Systems*. New York: Basic Books. For a more recent account, see: Doris Fuchs, "Channels and Dimensions of Business Power in Global Governance," paper presented to the ISA Annual Meeting, 20, March 2004.

¹⁹ Prior to CUFTA and NAFTA, the business-government relationship in Canada was largely distant and antagonistic under Liberal Keynesianism. See: W.T. Stanbury (1986) *Business-Government Relations in Canada*. Toronto: Methuen. In contrast, the situation in Mexico can be described as corporatist with business being subservient and complicit. See: Ruth Spalding (1981) "The Mexican Variant of Corporatism," *Comparative Political Studies*. 14 July 1981, pp.139-161. Things began to change in both countries beginning in the mid 1980s as business-government relations in the two countries seem to have converged toward the neo-liberal model. See: D. Wayne Taylor (1991) *Business and Government*

standing traditions within Canada and Mexico of state ownership, protection, and public fear and hostility toward American control. In fact, Canada and Mexico rejected the idea of a trilateral economic arrangement first proposed in the Ronald Reagan's electoral platform during the 1980 American Presidential campaign.²⁰ While certain powerful economic interests (fearful of American competition) benefited from state protection,²¹ Canadian and Mexican political elites faced limited societal pressure for change and so opted for the status quo.²² When business preferences began to change in the mid 1980s amidst changing economic conditions, however, certain factions of the Canadian and Mexican business communities provided the government's of Brian Mulroney (in Canada) and Carlos Salinas de Gortari (in Mexico) – both receptive to a neo-liberal ideology of *laissez-faire* – with important societal support. As an example of North American continental governance, business interests forged “consensus” domestically and engaged in transnational lobbying in order to implement a series of economic reforms designed to restructure their national economies through continental market integration.

Continental corporate restructuring prior to CUFTA/NAFTA

For much of the post-World War Two period, Canadian and Mexican economic development strategies were based on the logic of import-substitution industrialization (ISI) – a strategy which sought to encourage the development of indigenous industry through trade protection. By the early 1980's, however, ISI had become unpopular for both political and economic reasons. Politically, a dramatic decline in the world price for oil in 1982 placed significant budgetary constraints on Canadian and Mexican governments, effectively shifting the balance of power in favour of multinational capital, and foreclosing the possibility of continuing such controversial interventionist policies as Trudeau's National Energy Program (NEP) and Portillo's bank nationalization.²³

Relations: Partners in the 1990s. Toronto: Gage; and, Martin Needler (1994) “The Consent of the Governed? Coercion, Co-optation, and Compromise in Mexican Politics,” *Mexican Studies / Estudios Mexicanos*. 10, pp.383-390.

²⁰ The timing of this proposal corresponds to heightened American economic insecurity amidst the oil shocks, persistent and ballooning balance of payments deficits, slumping productivity growth rates, and the rise of the German and Japanese economies. Donald Barry and Ronald C. Keith eds. (1999) *Regionalism, Multilateralism, and the Politics of Global Trade*, Vancouver: UBC Press, p.12; see also, Strom C. Thacker (2000) *Big Business, the State, and Free Trade*, New York: Cambridge, p.4.

²¹ At this time, powerful business lobbies such as the Canadian Manufacturer's Association (CMA) in Canada, and the National Chamber of Industries (CANCINTRA) in Mexico, for example, opposed free trade.

²² Newly elected Canadian Prime Minister, Brian Mulroney, for example, had opposed the free trade initiative in the 1984 election, and several of his key cabinet ministers (e.g. James Kelleher, Minister for International Trade, and Joe Clark, Minister for External Affairs) were publicly cautious toward the idea. Similarly, newly elected Mexican President Carlos Salinas de Gortari had declared in 1988 that a NAFTA-style arrangement was “not feasible” and contrary to Mexico's short and medium term interests. See: Brian W. Tomlin “The Stages of Prenegotiation: the decision to negotiate North American free trade,” *international Journal*, XLIV, Spring 1989, p.268; and Manuel Pastor and Carol Wise (1994) “The origins and sustainability of Mexico's free trade policy,” *International Organization*, 48(3), p.459.

²³ Gilbert R. Winham (1994) “NAFTA and the Trade Policy Revolution of the 1980s: A Canadian Perspective,” *International Journal* 99 (Summer), pp.475-8. Stephen Blank et.al, (1995) “U.S. Firms in

Economically, a deep world-wide recession (1981/1982), and the increase in global competition that resulted from GATT-related tariff reductions provided corporations with incentives for restructuring both their internal and external operations.²⁴

In their efforts to reduce costs and increase the efficiency of production, North American TNCs began large-scale “downsizing,” which involved the removal of middle layers of management from corporate headquarters. In addition, increased global competition in an era of severe economic crisis²⁵ forced firms to abandon the low-output, high-cost branch-plant operations that were formerly sheltered behind high Mexican and Canadian tariffs. Instead of branch-plant production (branch-plants operated as miniature replicas of their parent firms), North American TNCs began reducing production costs by implementing two key changes in corporate strategy and structure, namely, the *integration* of subsidiaries into more or less coherent systems of regional production, and the *rationalization* of productive capacity and workforces.²⁶ Within this general framework, new methods of production management were implemented, including, “lean production” and “flexible manufacturing,” which relied on “intra-firm” trade and “just-in-time” inventory systems.²⁷

Though systematic quantitative analysis of corporate re-structuring has yet to be documented (partially a result of poor statistics), a brief look at changes in the cross-border stocks of FDI among NAFTA partners in the 1980s supports the qualitative evidence provided by Blank and Haar. For instance, between the years 1981 and 1990, stocks of Canadian FDI in the U.S. grew by an annual average of over 12 percent per year, nearly doubling between 1981 and 1985 (1985 was the year in which the Canadian government decided to negotiate free trade with the U.S.). Similarly, though smaller in relative terms, the stock of Mexican FDI in the U.S. increased seven-fold between 1981 and 1989.²⁸

The political significance of these changes to corporate strategy was profound. Indeed, we argue here that increases in intra-regional FDI, in conjunction with the well-documented trade-creating effects of FDI,²⁹ were responsible for changing Canadian and

North America: Redefining Structure, and Strategy,” *North American Outlook* 5, no.2 makes a similar point at page 9.

²⁴ Stephen Blank and Jerry Haar (1998) *Making NAFTA Work: U.S. Firms and the New North American Business Environment*, Boulder, CO.: North-South Center Press.

²⁵ The global economic slowdown of 1981/1982 was the most severe recession since the Great Depression of the 1930s.

²⁶ Stephen Blank and Jerry Haar (1998) *op. cit.*, p.22.

²⁷ Such methods of production, which are clearly evident in North American production processes, are one of three explanations offered by Gilpin for the increased regionalization of investment, services and production. The other two explanations include geographical and cultural market proximity, and mercantilist-style protection, which are also applicable to North American economic integration. See Robert Gilpin (2001) *Global Political Economy: understanding the international economic order*, Princeton, N.J.: Princeton University Press, p.292.

²⁸ See Alan Rugman and Micahel Gestrin, “NAFTA’s Treatment of Foreign Investment,” in Alan Rugman ed. (1994) *Foreign Investment and NAFTA*, University of South Carolina Press, pp.48-50.

²⁹ John Knubley, Marc Legault and Someshwar Rao, “TNCs and Foreign Direct Investment in North America,” in Lorraine Eden ed., (1994) *op. cit.* pp.145-6.

Mexican business preferences in support of the CUFTA and NAFTA agreements, resulting in increased business pressure on governments for policy change. We offer two reasons for why business increased pressure on government for economic liberalization. First, investors – mostly American and increasingly Canadian as well – sought more business-friendly environments in which to do business without fear of nationalization, while Mexico desperately sought incoming FDI. Second, increased economic integration (e.g. FDI and intra-firm trade) gave rise to a number of regulatory incongruities and so firms and their industry associations lobbied governments to harmonize rules in order to: (i) “secure access” to a larger market (Canadian firms); (ii) increase “competitiveness” by realizing economies of scale (Canadian and American firms); (iii) control inflation (Mexican firms); and, (iv) decrease other transaction costs.

Business and free trade: setting the agenda

If corporate restructuring was responsible for changing business preferences in favour of free trade, we still have not explained how or why the free trade initiative went from being virtually absent in the early 1980s to the top of the Canadian and Mexican political agendas scarcely a decade later. We argue that a change in corporate structure and strategy (reflected in increased FDI and intra-firm trade discussed above) led to increased pressure on government (because of the real and potential benefits of harmonization), which then led to a policy change. We hypothesize that only when government had the support of business did policy change occur, and we find support for this claim in some of the existing literature. Describing the process in Canada, Doern and Tomlin, for example, argue that a cautious Tory government faced mounting pressures from Canadian business organizations engaged in “a vigorous lobbying effort to shore up support for a comprehensive free trade arrangement...”³⁰ and that without a reversal of business’ historic positions (especially that of the Canadian Manufacturers Association, CMA) on the issue of free trade “the FTA would not exist.”³¹ In their study, Blank and Haar argue that “support for NAFTA originated in the Mexican private sector,”³² while Strom Thacker argues that business-government free-trade coalitions were an essential part of Mexico’s economic transformation, in which free trade played an important role.³³ In the following section, we demonstrate that a close look at the lobbying behaviour of specific business groups and at the actual timing of the decision to negotiate free trade reveals much light on the heterarchical nature of North American governance in general, and on the debate over whether the state led or followed during the pre-negotiation phase, in particular.

Business Activism in Canada

In Canada, the Business Council on National Issues (BCNI) is widely acknowledged to have been the key political actor that placed the free trade initiative on the political

³⁰ Bruce Doern and Brian Tomlin (1991), *Faith and Fear: The Free Trade Story*, Toronto: Stoddart, p.23.

³¹ *Ibid.* p.108.

³² Stephen Blank and Jeffrey Haar (1998) *op. cit.* p.13.

³³ Strom C. Thacker (2000) *op. cit.*

agenda.³⁴ Indeed, it was the BCNI that took the lead during the first stage of the prenegotiation process by identifying the problem of “contingent protectionism” (U.S. anti-dumping and countervail) and lack of “secure access” to the U.S. market.³⁵ In the words of BCNI President and Chief Executive, Thomas D’Aquino,

When we first floated the idea [of a free trade agreement with the US] early in the decade, no government in Canada favoured outright free trade and there was intense scepticism even in parts of the business community. Massive amounts of homework, extensive consultations and six years of advocacy helped to deliver a wide-ranging deal with our most important trading partner.³⁶

As a powerful business lobby composed of the chief executive officers (CEOs) of Canada’s largest (mostly foreign transnational) firms, the BCNI played the important roles of: forging consensus within the domestic Canadian business community concerning the benefits of free trade; persuading the Canadian government and population of the necessity of a comprehensive free trade deal with the U.S.; and generating interest amongst American political and economic elites.³⁷ In 1983, for example, BCNI members met with U.S. vice President George Bush Sr. who “seemed almost stunned” by their free trade proposal, and they later persuaded a “distinctly uninterested” American Business Roundtable to lobby their government for a deal.³⁸ At home, the BCNI had played an instrumental role in forging consensus among Canadian business by pitching slogans of increased “competitiveness” through free trade to other business groups (notably the CMA). Finally, in what has been called the “biggest public relations campaign in Canadian corporate history,”³⁹ the BCNI contributed enormous amounts of resources to the *Canadian Alliance for Trade and Job Opportunities* during the 1988 election campaign.⁴⁰ The BCNI was thus engaged in both domestic and transnational governance activities.

Although CMA support for free trade had lagged that of D’Aquino’s group (the BCNI had begun advocating free trade with the United States by as early as the Fall of

³⁴ See for example: David Langille (1987) “The Business Council on National Issues and the Canadian State,” *Studies in Political Economy*, 24, Autumn, pp.41-85; Doern and Tomlin (1991), *op. cit.*, pp. 48 and 217-219; Neil Bradford (2000) “The Policy Influence of Economic Ideas: Interests, Institutions and Innovation in Canada,” in Mike Burke et al. eds., *Restructuring and Resistance*, Halifax: Fernwood Publishing, pp. 67 & 72; and, Henry J. Jacek (1994) “Public Policy and NAFTA: The Role of Organized Business Interests and the Labour Movement,” *Canadian-American Public Policy*, No.19.

³⁵ Brian W. Tomlin (1989) “The Stages of Prenegotiation: the decision to negotiate North American free trade,” *International Journal*, XLIV, Spring, p.265.

³⁶ Business Council on National Issues, “Reflections on a Quarter Century of Business Leadership on Behalf of Enterprise and Country,” page 4, available at: http://www.ceocouncil.ca/publications/pdf/6c02dee3d5adc4361cdc96cf51846d14/speeches_2001_05_09.pdf.

³⁷ David Langille (1987) *op. cit.*, pp.65-69.

³⁸ Doern and Tomlin (1992) *op. cit.* p.48.

³⁹ Duncan Cameron “The Dealers,” *This Magazine*, Vol.21, no.8, February 1988, p.18.

⁴⁰ *Ibid.* pp.217-219. See also, Bruce Campbell and David Macdonald “Straight Talk: Big Business and the Canada-U.S. Free Trade Agreement Fifteen Years Later” *Behind the Numbers* 5(2) December 22, 2003.

1981),⁴¹ it was more decisive in helping to construct a business-government free trade coalition. Indeed, the Canadian government did not formally announce its intention to negotiate with the U.S. until *after* the CMA came out in support of a free trade deal in 1984,⁴² and *after* the Macdonald Commission (which represented well the business community view)⁴³ formally endorsed the free trade option in 1985. As Gil Winham points out, the shift in support of the CMA in 1984 was significant because its membership included the “rank and file” of the Canadian business community and not just major transnational firms, which lent the initiative legitimacy.⁴⁴

Given CMA’s long history of opposition to free trade with the United States,⁴⁵ its shift in support for a comprehensive trade deal seems puzzling. Indeed, a 1984 survey found that only one-third of CMA members thought that a free trade agreement with the U.S. would benefit them, yet the association as a whole supported the deal anyway.⁴⁶ The fact that the CMA eventually embraced free trade as a means to increase Canadian manufacturing competitiveness, even if a majority of their members did not stand to benefit directly from the deal,⁴⁷ demonstrates well the consensus forming, governance role played by the BCNI, and the power of the “strength through integration”⁴⁸ discourse promoted by the pro free trade coalition. By the time the CMA joined the free trade bandwagon, the BCNI had already done much of the groundwork to prepare the way for Progressive Conservative Prime Minister Brian Mulroney’s announcement on September 26, 1985 that Canada intended to negotiate a free trade agreement with the United States.⁴⁹

Lobbying in Mexico

If the role of the BCNI in setting Canada on the path to free trade is clear, the role of the Mexican private sector is more complicated (if only because the Mexican political system is less transparent than Canada’s). Indeed, most explanations of Mexico’s

⁴¹ Duncan Cameron ed. (1986) *The Free Trade Papers*, Toronto: James Lorimer & Company, p.xv.

⁴² John W. Warnock (1988) *op. cit.*, p.115.

⁴³ Richard Simeon, “Inside the Macdonald Commission” *Studies in Political Economy*, 22, Spring, 1987, p.170.

⁴⁴ Gilbert Winham (1994) *op. cit.* p.490.

⁴⁵ The CMA was created in 1871 for the specific purpose of lobbying the Liberal government against free trade and for the implementation of measures that would protect Canadian industry. See: Jayson Myers, ‘Canada: Meeting the Challenges of North American Integration’ paper submitted to the House of Commons Standing Committee on Foreign Affairs and International Trade, 5 February 2002, p.2.

⁴⁶ John W. Warnock (1988) *Free Trade and the New Right Agenda*, Vancouver: New Star Books, p.115.

⁴⁷ Doern and Tomlin (1991) *op. cit.* point out that during the course of the 1970s to the 1980s the proportion of CMA members that exported had risen from 15 to 40 per cent, p.49.

⁴⁸ Golob (2003) p. 389.

⁴⁹ Stephen Haggard, “Regionalism in Asia and the Americas,” in E.D.Mansfield and H.V. Milner (1997) *op. cit.* p.36. See also: Bruce G. Doern and Brian W. Tomlin. (1991), *op. cit.*; Michael Hart, William Dymond, Colin Robertson (1994) *Decision at Midnight: inside the Canada-US free trade negotiations*, Vancouver: UBC Press; Gordon Ritchie (1997) *Wrestling with the Elephant: the inside story of the Canada-US trade wars*, Toronto: Macfarlane Walter & Ross.

liberalization in the 1980's underemphasize the role of the private sector.⁵⁰ Moreover, where the private sector is acknowledged to have played a role, most would agree with Henry Jacek that the U.S. Business Roundtable (BRT) was instrumental in promoting NAFTA in Mexico.⁵¹ In contrast to its secondary role during CUFTA, and much like the BCNI visit to Bush in 1983, the U.S. BRT was pro-active, visiting the Mexican president, Carlos Salinas de Gortari in 1989 to discuss continental free trade.⁵² At that time, it was not difficult to convince Salinas de Gortari, a Harvard Ph.D., of the desirability of a U.S.-Mexico trade agreement. In addition to free trade being consistent with Salinas' ideology, "...a US-Mexico Business Committee began to push for trade liberalization behind the scenes," providing much of the groundwork for an agreement by as early as 1980.⁵³

Notwithstanding the transnational governance role of American business in leading the Mexican government toward free trade, activism among a transformed Mexican business community was also significant. Despite American protectionism and pressure from the U.S. on Mexico to eliminate export subsidies (which might explain the rapid increase of Mexican FDI in the U.S. discussed above), Mexican exports of manufactured goods rose in the 1980s, surpassing oil.⁵⁴ The period from the late 1980s onward saw a profound transformation of the Mexican economy, brought on by Mexico's accession into the GATT in 1986.⁵⁵ Indeed, initial support for the opening of the economy had begun by 1985 as certain potentially competitive national and transnational firms became aware that they could reduce input costs and improve their competitiveness through liberalization.⁵⁶ As a result of the GATT reforms, export-oriented firms prospered (while smaller, domestic-oriented firms weakened) and began intensive lobbying.⁵⁷ In addition to trade liberalization, Mexican business lobbied against populist policies that hurt their interests (such as the much despised bank nationalization program under Lopez Portillo in 1982). The bank nationalization had galvanized the Mexican business community to work harder to influence public policy, particularly through the Business Coordinating Council (CCE), an umbrella group of business organizations, and the Employer's Federation of the Mexican Republic (COPARMEX).⁵⁸ The "double transformation" of Mexican business interests had begun, as the upper echelons of the Mexican business community, like their Canadian counterparts, sought greater flexibility

⁵⁰ See for example: Manuel Pastor and Carol Wise (1994) "The origins and sustainability of Mexico's free trade policy," *International Organization*, 48(3): pp. 459-489; and, Blanca Heredia (1996) *Contested State: the Politics of Trade Liberalization in Mexico*, Ph.D. dissertation, Columbia University.

⁵¹ Henry Jacek, *op. cit.*, pp.5-6.

⁵² *Ibid.* p.5.

⁵³ Henry Jacek, "The Role of Business in the Formulation and Implementation of Regional Trade Agreements in North America," in Justin Greenwood and Henry Jacek, eds. (2000) *Organized Business and the New Global Order*. New York: St. Martin's Press, p.43.

⁵⁴ Aldo R. Flores Quiroga (1998) *Proteccionismo Versus Librecomercio: La Economia Politica de la Proteccion en Mexico, 1970-1994*, Mexico: Fondo de Cultura Economica, Table 7.14, p.320.

⁵⁵ Deborah L. Riner and John V. Sweeney, in R. Roett ed., (1998) *Mexico's Private Sector: Recent History, Future Challenges*, Boulder CO.: Lynne Rienner, p.165.

⁵⁶ Thacker (2000) *op. cit.* pp.13-14 and 82.

⁵⁷ Pastor and Wise (1994) *op. cit.* p. 479.

⁵⁸ Aldo Flores (1998) *op. cit.* chapter 7. On the more assertive, increasingly activist Mexican private sector, see also: Pastor and Wise (1994) *op. cit.* p. 479.

for rationalizing operations, and greater certainty in the area of foreign investment (as opposed to certainty of “market access,” the obsession of Canadian business).

Politically, the Mexican equivalent to the BCNI is the *Consejo Mexicano de Hombres de Negocios* (the Mexican Council of Businessmen) or CMHN, a powerful member of the CCE. Beginning with President de la Madrid and continuing with Salinas, the CMHN met regularly with the President and his closest advisors. At these meetings the CMHN lobbied hard for economic reforms, which led to the announcement in early 1990 that Mexico would pursue a free trade agreement with the United States.⁵⁹ This decision reflected a fundamental shift in the Mexican Institutional Revolutionary Party’s (PRI) political base toward “an explicit and largely exclusive alliance with the most elite segments of big business.”⁶⁰ Not surprisingly, when Salinas de Gortari travelled to the U.S. and Canada in April of 1991 to promote NAFTA, he brought along eight members of the CMHN.⁶¹

As was the case in Canada, pro-free trade business interests were instrumental in forming a business-government coalition in favour of free trade. These same interests were directly included in the decision-making process. We now examine the governance mechanisms through which the Canadian and Mexican private sectors were incorporated as negotiation partners.

Negotiating CUFTA/NAFTA: including the private sector through TAGs

Once business had placed the free trade initiative on the agenda and the respective decisions were made in both Canada and Mexico to negotiate CUFTA and NAFTA, the two governments set up similar institutional structures linking governmental representatives to societal interests in order to facilitate the negotiation process. A system of trade advisory groups (TAGs) provided mechanisms through which important business groups could be included in the creation of rules to govern the North American economic space.

This consultative machinery was first developed in the United States and grew out of the 1974 Trade Act, which empowered the American executive with the authority to conduct trade negotiations, spelled out the Congressional procedures and limitations for implementing negotiation outcomes into U.S. law, and, established the institutional machinery of advisory committees designed to integrate the private sector directly into the decision-making process.⁶² The consultative machinery in the U.S. consisted of a Presidentially appointed Advisory Committee on Trade Negotiations (ACTN) presiding over twenty-seven Industry Sector Advisory Committees (ISACs).⁶³ At a general level,

⁵⁹ John Warnock (1995) *The Other Mexico: The North American Triangle Completed*, Montreal: Black Rose, p.86.

⁶⁰ Pastor and Wise (1994) *op. cit.* p. 479.

⁶¹ John Warnock (1995) *op. cit.*, p.86.

⁶² Gil Winham (1986) *International Trade and the Tokyo Round Negotiation*. Princeton, N.J.: Princeton University Press, p.307.

⁶³ *Ibid.* pp.308-309.

these TAGs played three important roles: information generation, pressure group insulation, and legitimacy.⁶⁴ First, they provided negotiators with industry-specific information regarding potential effects of alternative outcomes and Congress with advice regarding whether the final outcomes were in the broad “national interest.” Second, the groups acted as “buffer” and “control” mechanisms to channel and contain domestic pressures. Finally, they provided an element of legitimacy to the negotiations by providing an avenue through which constituents (in this case, business) could express their views.⁶⁵ In performing these functions, the TAGs proved to be indispensable structures of governance that would be employed by Canada and Mexico.

TAGs in CUFTA (1986-1988)

The consultative machinery used in Canada for negotiating CUFTA was a product of Canada’s experience during the Tokyo Round of GATT negotiations. During the Tokyo Round, business was dissatisfied with the broad-based consultations provided for by the International Trade Advisory Committee (ITAC), which drowned-out industry-specific concerns.⁶⁶ Accordingly, Canada adopted a two-tier structure for CUFTA negotiations, modeled directly after the system in place in the U.S.⁶⁷ While the 38-member ITAC continued to provide the Minister of International Trade with the general business view on the conduct of negotiations, fifteen Sectoral Advisory Groups on International Trade (SAGITs) provided negotiators with sector-specific advice.⁶⁸ As Doern and Tomlin point out, this design allowed the Canadian TAGs to carry out well the three imperatives of business involvement during the negotiations: the formal and non-partisan business support embodied in the ITAC helped to foster legitimacy; the SAGITs generated the required information allowing negotiators to assess the potential implications of alternative negotiation outcomes; and, together the two acted as a buffer against demands for special treatment.⁶⁹

Overall, the two-tier structure of the Canadian TAGs was successful (relative to Mexico, at least) in striking an appropriate balance between the need to represent the various factions of Canadian business and the need for consensus. This being said, relatively broader representation of business in the Canadian SAGITs made considerable conflicts inevitable, both among and within the various advisory groups. Despite a common public front, conflicts occurred among SAGIT’s representing different interests (e.g. Auto parts versus Services) and within SAGIT’s representing internally conflicting needs (e.g. Food Manufacturers).⁷⁰ These conflicts were mitigated, however, by the

⁶⁴ Ibid. p.109. See also: Gustavo del Castillo V. “Private Sector Trade Advisory Groups in North America: A Comparative Perspective,” in Gustavo del Castillo V., and Gustavo Vega Cánovas (1995) *The Politics of Free Trade in North America*, Ottawa: Centre for Trade Policy and Law, Carleton University.

⁶⁵ Winham (1986) *op. cit.*, Doern and Tomlin (1991) *op. cit.* p.109.

⁶⁶ Doern and Tomlin (1991) *op. cit.* p.110.

⁶⁷ Ibid. p.110, see also: Judith Bello and Gil Winham, “The Canada-USA Free Trade Agreement: Issues of Process,” in L. Waverman ed., (1992) *Negotiating and implementing a North American Free Trade Agreement*. Vancouver: Fraser Institute, pp.45-46.

⁶⁸ Ibid. p.47.

⁶⁹ Doern and Tomlin (1991)

⁷⁰ Ibid. pp.114-120.

federal government's central role in the appointment and financing of the TAGs, as well as by the closed-door consultations, which ensured secrecy and control.⁷¹

While the composition of the Canadian TAGs was broadly representative of Canadian business interests, the same cannot be said of its representation of other important stakeholders. The fear of organized labour leaders (with the exception the initial participation of the Canadian Federation of Labour and subsequent addition of labour leaders to ITAC) of being co-opted ensured that the TAGs would be primarily a business consultative mechanism.⁷² Similarly, the TAGs excluded the provinces as the federal government consulted business interests directly thereby short-circuiting provincial structures of interest group consultation and marginalizing the inter-governmental ("executive federalism") consultation process.⁷³ This combination of politically appointed and selective representation, and the fact that committee meetings took place behind closed doors – though necessary to facilitate negotiations – brought to light the continued importance of government in North American continental governance.

Overall, the Canadian use of TAGs during the CUFTA negotiations provided the government's trade initiative with a consultative mechanism and partial legitimacy, but in the absence of formal power to render public advice or opinion (as in the American system), the influence of particular business on negotiation outcomes through the TAGs was limited. Indeed, according to some observers, the CMA and BCNI exerted much more of an influence outside the formal institutions during negotiations than other groups within them.⁷⁴ This being said, the simple fact that business could express its views on developments happening within negotiations, which provided the initiative with some legitimacy, is enough for the Canadian TAGs to warrant the status of governance.

TAGs in NAFTA (1991-1992)

Unlike the Canadian case during CUFTA, the Mexicans did not have prior experience with incorporating business into the negotiation process.⁷⁵ When asked by the Mexican equivalent of a Trade Negotiation Office (Secretaria de Comercio y Formento Industrial, SECOFI) to prepare impact assessments of an agreement on the different sectors of the Mexican economy, the Business Coordinator Council (CCE) created the Coordinator for Foreign Trade and Business Organizations (COECE) in

⁷¹ Table 1, Gustavo del Castillo V. (1995) *op. cit.* p.36.

⁷² *Ibid.* p.110. See also: Winham and Bello (1992) *op. cit.* pp.46-47.

⁷³ Éric Montpetit (2004) "Can Québec Neo-Corporatist Networks Withstand Canadian Federalism and Institutionalization," in A.G. Gagnon ed., *Quebec State and Society*, 3rd ed., Peterborough: Broadview, pp. 172 & 176-7.

⁷⁴ The BCNI and CMA roles were particularly important in terms of shoring up the American business coalition at strategic times when their governments appeared to have "dropped the ball." See Doern and Tomlin (1991) *op. cit.* pp.106-108.

⁷⁵ Moving in this direction, however, was consistent with the broad trend that began in the 1980s toward increasing the participation of certain business groups (especially those not wedded to state protection) in policy making. Thacker (2000) *op. cit.* pp.87-88.

1990.⁷⁶ This organization became Mexico's first TAG whose primary purpose was to present a single, unified position to the Mexican negotiating team.⁷⁷ The COECE adopted a horizontal structure⁷⁸ patterned after the Canadian ITAC, prompting its first executive director to claim, "We copied it from the Canadians!"⁷⁹ Closer analysis, however, reveals that the Canadian and Mexican consultative machinery differed substantially in terms of structure, functions, relationship with government, and impact over outcomes.

In contrast to the Canadian two-tier structure, COECE was horizontally structured, mirroring the Canadian ITAC but without the complementary SAGIT component. As such, the Mexican government seems to have thought it more important for COECE to coordinate a common business view than channel divergent sectoral concerns. Indeed, the single-tier structure of COECE ensured that, despite broad, horizontal representation, the concerns of small and medium sized enterprises (SMEs) would be washed out.

Despite their enormous importance, and the peculiar needs they have, small and medium sized firms in the TAGs are clustered together with large firms and treated as members of separate industry groups, i.e. textiles, apparel, furniture. In this institutional framework the needs of small and medium-sized firms as well as large firms are seen as similar and dependent on the characteristics of the particular sector of the economy to which each belongs.⁸⁰

In structuring COECE in this particular way, the Mexicans seem to have erred on the side of avoiding conflict by over-representing large firms and minimizing the influence of SME's within COECE. Moreover, the self-appointed, privately-funded nature of COECE contrasts sharply with the Canadian (government-appointed and funded) system and served to further marginalize small and medium sized business people from the negotiation process. Mexican SME's simply could not afford assigning full-time staff to the negotiation and could not afford paying the high costs of private consulting firms hired for the sectoral studies that COECE required to prepare for the negotiations.⁸¹

Paradoxically, while COECE was meant to create a united business front, its exclusion of certain groups had the potential to "bring about the unintended consequence of fomenting divisiveness between business sectors, between small and large firms, and between certain sectors or firms and the government."⁸² Little opposition was voiced,

⁷⁶ Martha Lara de Sterlini, "The Participation of the Private Sector in International Trade Negotiations," Unpublished paper, pp.2-3.

⁷⁷ Thacker (2000) *op. cit.* p.142.

⁷⁸ Close to twenty working groups were created by COECE, which corresponded to the subject areas covered by the negotiations (e.g. market access, rules of origin, textiles and clothing, etc.) and reflected the structure of the Mexican negotiating team. See: Martha Lara de Sterlini, *op. cit.* p.5.

⁷⁹ Gustavo del Castillo V. (1995) *op. cit.* p.41.

⁸⁰ *Ibid.* p.6.

⁸¹ Thacker (2000) *op. cit.* pp.166-167; and Ceva in Roett (1998) *op. cit.* p.129.

⁸² Ceva in Roett, (1998) *op. cit.* p.128.

however, probably because “no opposition would be tolerated”⁸³ and because of the asymmetry of information held by only a small fraction of the Mexican business community.⁸⁴ In the absence of perfect information regarding the projected effects of a free trade deal on the different sectors of the Mexican economy, leaders of Mexican SMEs bought into popular discourse – like the linkage between free trade and macro-economic stabilization – and therefore supported a free trade deal even when it was not “objectively” in their interests to do so.

If the Mexican COECE was somewhat *less* representative than the Canadian TAGs, it was also substantially *more* effective in influencing government negotiation positions and eventual outcomes. There is broad consensus within Mexico that “the participation of the private sector in the NAFTA negotiations was extensive, intensive, and effective.”⁸⁵ Indeed, COECE’s private sector representatives participated “actively and directly in the formulation and revision of Mexico’s negotiating positions.”⁸⁶ In addition to meeting with negotiators in Mexico City after a negotiation round, Mexican private sector representatives travelled with and reserved hotel rooms close to negotiators, met with them at the beginning and end of each day of negotiations, and made themselves available during negotiations in the so-called “room next door” (*cuarto de junto*).⁸⁷ Although COECE did not have the capability of the Canadian ITAC or SAGITs to define private sector positions,⁸⁸ Mexican representatives maintained a *continuous* presence in the negotiations and had *immediate* access to negotiators who worked closely with their private sector partners. In sum, whereas the two-tier, publicly funded and appointed Canadian TAG was slightly more *representative* of Canadian *business* interests and provided greater legitimacy, the horizontal, privately-appointed and financed Mexican TAG was more *influential* and provided a stronger political buffer.

CUFTA/NAFTA as Governance

In sum, the decisions to negotiate the CUFTA/NAFTA agreements, and the actual negotiations themselves, constitute an important moment in the governance of North America. Recall that our definition of governance refers to the exercise of power and influence outside or on the boundary of government structures, through interactions among political, economic, and social actors, and that such activity occurs at various levels of analysis. Our case study of business lobbying in Canada and Mexico highlights the key role of business’ domestic and transnational governance activities, which helped place the free trade negotiations on the Canadian and Mexican political agendas. Moreover, our analysis of the TAGs, used in both Canada and Mexico, demonstrates how business actors were included into the actual negotiation process. Borrowed from the consultative machinery in the U.S., the use of TAGs as instruments of governance highlights the extent to which patterns of governance in North America are converging

⁸³ Gustavo del Castillo V. (1995) *op. cit.* p.42.

⁸⁴ Pastor and Wise (1994) *op. cit.* p. 480. See also, Ceva in Roett (1998) *op. cit.* p.126.

⁸⁵ Thacker (2000) *op. cit.* p.163.

⁸⁶ *Ibid.* p.144.

⁸⁷ *Ibid.* p.144. See also: Ceva in Roett (1998) *op. cit.* p.129; and, Martha Lara de Sterlini, *op. cit.* p.9.

⁸⁸ Gustavo del Castillo V. (1995) *op. cit.* p.42.

(what might be called “hegemonification”), with business now playing a more direct role in the making of economic policy in both Canada and Mexico. Finally, the difficulty in determining whether business or government actors were dominant in the agenda-setting and negotiation stages reflects the heterarchical nature of North American governance discussed above. Having discussed the CUFTA/NAFTA negotiations as moments in the governance of North America, we now turn to an analysis of business’ role in redefining North America’s borders in the aftermath of 11 September 2001.

Redefining North America: “Smart Borders” and “Big Ideas”

Just as the negotiation of CUFTA and NAFTA contradicted long-standing traditions within Canada and Mexico of state ownership, protection, and public fear and hostility toward American control, the re-organization of Mexican and Canadian policy priorities in the aftermath of 11 September 2001 contradicted the trajectory of economic liberalization set in place by the CUFTA and NAFTA agreements. For business, a return to an environment where “security trumped trade” came as an unwelcome surprise. Following the negotiation of NAFTA, which took effect on 1 January 1994, the three North American partners then assisted – in various capacities – in the creation of the World Trade Organization (WTO, 1995), which extended the economic liberalization agenda into the areas of investment, services and intellectual property at the *global* level. Fortuitously, this trajectory of economic liberalization took a sudden turn on the morning of 11 September 2001. The terrorist attacks in New York, Pennsylvania and Virginia proved to be a cataclysmic wake up call for a sleeping hegemon who now realized that the same means responsible for generating its wealth and prosperity – open economies, transportation and communications systems – could also be used to bring about its demise.⁸⁹ In an effort to secure itself from further terrorist attacks, and seemingly unconstrained by economic realities,⁹⁰ the United States abruptly shut down its land borders, airports and seaports, threatening the “just-in-time” production systems upon which its continentally and globally oriented corporations depended. But while this “paradigm shift”⁹¹ from economic opening to military closing appeared as the re-emergence of government in North American governance, closer analysis reveals that business actually played a key role in bringing about significant policy change, providing a second key moment in North American continental governance.

Business and Borders

⁸⁹ Stephen Flynn “Beyond Border Control,” Presentation given to the Public Policy Conference on Canada’s Policy Choices. For a summary, see Erick Lachapelle, *Canada’s Policy Choices: Managing Our Border with the United States*, Ottawa: Public Policy Forum, p.18.

⁹⁰ Daily two-way trade between Canada and the U.S. reached \$1.9 billion Canadian (\$1.28 billion USD) in 2000, while yearly Canada-U.S. commerce surpassed U.S. trade with all fifteen countries of the EU. 38 American States rely on Canada as their primary export market while U.S. trade with Ontario surpassed U.S. trade with Japan. DFAIT, “Trade Update 2002” May 2002, www.dfait-maeci.gc.ca/eet/SOT_2002-e.pdf. Last viewed on February 18, 2005.

⁹¹ Stephen Clarkson and Maria Banda, “Paradigm Shift or Paradigm Twist? The Impact of the Bush Doctrine on Canada,” *Foreign Policy in Focus*, March 2004.

Prior to the attacks on 11 September 2001, private and public sector mobilization around border issues emerged and would ultimately set the stage for our second moment in North America's continental governance. The extent of such governance activity, however, was fundamentally lop-sided. While American and Mexican authorities identified border security as an important issue on their respective political agendas, business in Mexico was relatively more lethargic than in business in Canada.⁹² Indeed, it was the Canadian business community that wound up taking much of the credit for developing the border proposals that would become policy following the terrorist attacks. As was the case with the Canadian TAGs, variations of these proposals were eventually implemented by the Mexicans.

As mentioned above, North American business interests had an agenda for redefining the role and function of the Canada-U.S. border that preceded the 11 September 2001 terrorist attacks. In an excellent example of transnational governance, Canadian business, in conjunction with the Canadian government and allies in the American business and border-regions communities, lobbied extensively in Washington against Section 110 of the American *Illegal Immigration Reform and Immigrant Act* of 1996, which sought to establish electronic documentation of travelers entering and exiting the U.S.⁹³ Realizing that Section 110 threatened to strangle the flow people and goods, a cross-border, business-government coalition lobbied hard to avoid costly bottlenecks. With the help of large transnational American business interests, the Act was replaced with the *Immigration and Naturalization Service Data Management Improvement Act* of 2000, which required improvements to cross-border tracking, but without increasing the documentary burden on importers/exporters and travelers.⁹⁴ As Christopher Sands points out, the cross-border business-government coalition demonstrates the importance of U.S. business to Canadian lobbies wishing to influence U.S. policy and, despite the economic asymmetries, that "powerful economic interests [in the U.S.] will fight back if security measures come at a disproportionate cost."⁹⁵

On the emerging border issue, Canadian business was also active through its associations and in its funding of research undertaken by numerous policy think-tanks. In a publication entitled, *The Views of Canadian Industry and Business Associations on Canada-United States Economic Integration*, for instance, the Public Policy Forum identified the Canada-U.S. border as a "nuisance"⁹⁶ for business. It ran down the middle of a production line representing "...a significant transactional factor for just-in-time

⁹² This statement will be assessed in future research on Mexico. It is, however, consistent with other work in the volume. See: Benjamin Hyman "U.S.-Mexico Border Security," final paper submission to Professor Stephen Clarkson, July 13, 2004.

⁹³ See: Christopher Sands (2002) "Fading Power or Rising Power: 11 September and Lessons from the Section 110 Experience," in N. Hillmer and M. Appel Molot eds., *Canada Among Nations: A Fading Power*, Toronto: Oxford University Press, pp. 49-73; and, Department of Foreign Affairs and International Trade. *Building a Border for the 21st Century: CUSP Forum Report*. Ottawa: DFAIT, December 2000, pp. 14-15.

⁹⁴ CUSP Forum Report, p.15.

⁹⁵ Christopher Sands (2002) *op. cit.* p. 65.

⁹⁶ Yves Poisson, *Background Report: The Views of Canadian Industry and Business Associations on Canada-United States Economic Integration*, Ottawa: Public Policy Forum, October 2000, p.39.

delivery systems.”⁹⁷ Commissioned by its members – composed mainly of business and their associations – the Public Policy Forum interviewed over 50 top-ranking business executives and found that, despite American concerns over security, many associations shared in an established objective of “...creating a *seamless* movement of goods and people between Canada and [the] U.S.”⁹⁸ Six months later, and before the 11 September 2001 attacks, the Forum identified a “perimeter” approach to managing the Canada-U.S. border as “...an efficient and safe solution to decrease congestion at the border” and suggested that government should “let the private sector lead.”⁹⁹ The perimeter approach involves a redefinition of the role of the border that allows for the joint (i.e. Canada/U.S.) inspection of peoples and goods intent on entering the Canadian-American territory to occur at locations away from the actual land border – at offshore points of origin (e.g. Rotterdam, Hong Kong), at continental points of entry (e.g. airports and seaports) as well as at points in transit (e.g. using biometric technologies at the border or constant monitoring using sophisticated global positioning systems – GPS).¹⁰⁰ In an effort to further private sector input in North American governance, some business people advocated the creation of a bi-national industry advisory group tasked with identifying border issues and presenting recommendations to Canadian and American governments.¹⁰¹ In so far as these recommendations were made and acted upon, business can be said to have engaged in processes of continental governance.

While business made recommendations through organizations it supported financially, government actively sought private sector input through other consultative fora. During the period between 1995 and 1997, a number of border agreements were signed by the Canadian and American governments, but were subsequently ignored.¹⁰² Most important, for our purposes, was the creation of the Canada-U.S. Partnership (CUSP), established by Prime Minister Chrétien and President Clinton in 1999. The CUSP was the product of a joint, public-private sector effort to garner the political will necessary to look at “innovative” solutions to the border dilemma – how to reconcile the twin goals of free movement with public security.¹⁰³ Like the Forum’s roundtable discussions, the CUSP process brought together various societal “stakeholders” – mostly from business and government – to participate in a process of governance. Moreover, as was the case with the Public Policy Forum, “seamless” transactions were set as the

⁹⁷ CUSP Forum Report, p.11.

⁹⁸ Background Report, p.39. emphasis added.

⁹⁹ Rachelle Cloutier, “Making the ‘Northern’ Border Work in an Integrated North America” Conference Report for the Public Policy Forum Roundtable on Borders, Transportation and Trade, April 10 & 11, 2001, Toronto, p.6.

¹⁰⁰ Given public concerns over the loss of sovereignty such an arrangement would entail, the perimeter approach has been re-branded by some as a “Area of Mutual Confidence.” See George Haynal, “Interdependence, Globalization and North American Borders,” *Policy Options*, September 2002.

¹⁰¹ *Ibid.* p.6.

¹⁰² First, the *Shared Border Accord*, launched by customs and immigration agencies in 1995, focussed on the issues of immigration and smuggling. Next, *Border Vision*, established by immigration agencies in 1997, focussed on cross-border information and intelligence sharing. Finally, the *Cross Border Crime Forum* brought together law enforcement agencies in 1997 to examine solutions to transnational crime, before the CUSP process, created in 1999, was created to take a more holistic look at border issues and solutions. See CUSP Forum Report, pp. 15-17; and, Christopher Sands, op. cit. pp.51-64.

¹⁰³ CUSP Forum Report, p.3.

objective,¹⁰⁴ and the perimeter approach was recommended in order to facilitate trade and increase border security where human resources were limited and where existing border infrastructure was incapable of managing the “exponential” growth in the flow of people and goods since the conclusion of the FTA (1988) and the NAFTA (1994).¹⁰⁵ Since the signing of CUFTA, bilateral Canada-U.S. trade in goods and services reached US\$447 billion in 1999, up from US\$174 billion in 1988, amounting to roughly \$1.9 billion Canadian in daily two-way trade.¹⁰⁶ In other words, trade between Canada and the U.S. doubled since the FTA came into effect, much of it carried by the 18, 000 trucks crossing a handful of busy border crossings each day.¹⁰⁷ As former Assistant Deputy Minister at DFAIT and co-chair of the CUSP process remarked, participants felt that the border was being overstressed – border inspection agencies were responsible to act on behalf of over 50 government agencies¹⁰⁸ – and some felt that perhaps the border was actually doing too much.¹⁰⁹

In response to these concerns, a number of pilot projects emerged as a direct result of public-private sector cooperation, mostly undertaken by the Canadian government. These projects developed out of Canadian private sector collaboration, primarily between the Canada Customs and Revenue Agency (CCRA) and the Canadian Manufacturer’s and Exporters (CME), a further example of governance with continental implications. Guided by the concepts of “risk management” and “pre-release/pre-clearance,” the approach taken by CCRA was to improve import/export processes as opposed to increasing border resources. To this end, CCRA developed a “risk based” strategy, outlined in their “Customs Action Plan,” involving streamlined processes for pre-approved, low-risk goods and travelers.¹¹⁰ The Plan set guidelines for unilateral initiatives like the Customs Self Assessment (CSA) for cargo and CANPASS/NEXUS for people, which set out to establish fast lanes for low-risk travelers and goods. Concurrently, CCRA planned to intensify processing for high and unknown risk through initiatives like carrier re-engineering, Advanced Passenger Information (API) and Administrative Monetary Penalty Systems (AMPS).¹¹¹ On the opposite side of the border, the U.S. Immigration and Naturalization Service created INSPASS for travelers while U.S. Customs created the National Customs Automation Prototype (NCAP) to electronically clear cargo through pre-arrival processing.¹¹² These programs existed alongside C-TRAP, a U.S. customs program in which business voluntarily undergo a

¹⁰⁴ Ibid. p.4.

¹⁰⁵ Ibid. pp. 4-5, 12 and especially 19.

¹⁰⁶ Ibid, p.12.

¹⁰⁷ Background Report, p.12.

¹⁰⁸ CUSP Forum Report, p.11.

¹⁰⁹ George Haynal. Presentation given to the Public Policy Conference on Canada’s Policy Choices. For a summary, see Erick Lachapelle, *Canada’s Policy Choices: Managing Our Border with the United States*, Ottawa: Public Policy Forum.

¹¹⁰ For nearly two years, the CCRA consulted with staff, the trading and travellers communities, and other stakeholders across the country to create a “comprehensive plan for the future customs program over the next five years.” The result was a publication, *Investing in the Future: The Customs Action Plan 2000-2004*, which Minister Cauchon launched on 7 April 2000 at the Canadian Importers Association's spring conference in Toronto. http://www.cbsa-asfc.gc.ca/general/blue_print/menu-e.html

¹¹¹ R. Cloutier, “Making the “Northern Border Work,” p.13.

¹¹² CUSP Forum Report, pp. 36 & 38.

self-assessment of supply chain security, similar to the Canadian CSA. Once business' entered the CSA and C-TRAP programs, they could then be eligible for membership in the bilateral Free and Secure Trade Lanes (FAST) program, allowing for expedited border crossings through designated lanes.¹¹³

Interestingly, bureaucratic resistance in Canada and a lack of enthusiasm in Washington prevented the full implementation of these pilot projects.¹¹⁴ Although the CUSP process and CCRA initiatives generated a great deal of economic interest from the business community and technical interest from the Canadian bureaucracy, efforts made to garner the political will necessary to implement their recommendations ultimately failed. Apparently, Americans cared very little about their border with Canada. It took a national security crisis and intensive lobbying on behalf of an emergent transnational business community to bring several long-standing proposals onto the continental governance agenda.

11 September 2001: A Window of Opportunity

If proposals for re-thinking border management had gone unnoticed by the public prior to 11 September 2001, the same could not be said after the terrorist attacks on the World Trade Center and Pentagon. Within minutes of the attacks, and in light of heightened security fears, American authorities abruptly tightened border controls and shutdown its airports and seaports, temporarily strangling the flow of peoples and goods. As manufacturing plants on both sides of the border felt the immediate impact of border delays,¹¹⁵ the border became a symbol of Canada's growing dependence and vulnerability vis à vis the U.S. economy, while to the Americans, their border with Canada became a symbol of their vulnerability to unconventional forms of attack.

From an American perspective, it was instinctive to try and secure U.S. borders at a time when national security was threatened. This reaction occurred partially as a result of American misconceptions about Canada's lax security, immigration and refugee determination systems, and was reflected in American militarization of its border with Canada,¹¹⁶ which, to the astonishment of Canadian business, reduced the skewed quality

¹¹³ Canadian Border Services Agency, "FAST" <http://www.cbsa-asfc.gc.ca/import/fast/menu-e.html#what>

¹¹⁴ In an interview with former ambassador to Canada and outspoken integrationist, Gordon Giffen, Stephen Clarkson and Maria Banda uncovered that "Canada opposed U.S. plans for customs/immigration controls coordination that would have required joint staffing in border facilities or the sharing of passenger lists on commercial flights. Letting the American officers carry weapons in Niagara Falls alongside RCMP colleagues was unimaginable; providing the U.S. with passenger lists was said to violate the Charter." See: Stephen Clarkson and Maria Banda, "Congruence or Conflict: Canada and Mexico's Responses to Paradigm Shift in the United States," Paper presented to the CPSA annual meeting, June 1, 2003, note 21, page 9.

¹¹⁵ Immediately following the attacks, trucks attempting to enter the U.S. waited in 20-mile-long line-ups at the border. Two days after, on September 13, trucks waited up to 15 hours at the Ambassador Bridge in Windsor, forcing many plants relying on just-in-time inventory systems to shut down production. See: "Long delays reported at U.S.-Canada border" *CNN.com*, September 13, 2001. <http://archives.cnn.com/2001/TRAVEL/NEWS/09/13/border.delays/>

¹¹⁶ Sheldon Alberts. "U.S. To Deploy Troops to Border." *National Post*, Monday, December 3, 2001, A1, A6.

of Canada's "special relationship" with the U.S., symbolized by the myth of the world's "longest undefended border" shared between the two countries. In a debate strikingly similar to that surrounding Section 110, talk of 100% border inspections, the issuance of national identity, or "smart cards," and the positive identification of everything entering and leaving the country circulated within American policy circles. In this crisis context, it was difficult to over-state the extent to which the events of September 11 brought border management issues to the fore and onto Washington's policy agenda.

With attention now focussed at the Canada-U.S. border, North American business interests were presented with an important "window of opportunity" to implement long-standing border management policy change.¹¹⁷ Interestingly, the business leaders' vocabulary closely resembles what policy academics call a "policy window," a critical juncture which "policy entrepreneurs" (from the private and/or public sector) must couple with their "policy ideas" in order to bring about policy change.¹¹⁸ The "window of opportunity" argument is also echoed in the social movement literature in the form of a "political opportunity structure," defined as "...consistent – but not necessarily formal or permanent – dimensions of the political environment that provide incentives for collective action by affecting peoples expectations for success or failure."¹¹⁹ Whether conscious of these parallels or not, the use of the "window of opportunity" phrase was clearly accurate, from an academic point of view.

Many of the problems that the Canadian and American governments faced in the aftermath of 11 September 2001 were already considered by CUSP participants who had developed solutions waiting to be implemented. In a crisis context, business' policy ideas had gained currency as the severity of the situation made Canadian policy makers more receptive to implementing policy change. As was the case when business placed free trade on the Canadian government's agenda, the CMA and BCNI played important governance roles. In the next section, we discuss the activities of the CMA (now the Canadian Manufacturers and Exporters, CME, to better reflect the export-oriented-ness of its members) in helping formulate proposals for "smart borders," and those of the BCNI (now branded the Canadian Council of Chief Executives, CCCE, to better reflect its transnational character) in its on-going efforts to influence the future of North American governance.

CME and the Coalition for Secure and Trade Efficient Borders

With business concerned about the vulnerability of their just-in-time production systems vis-à-vis unilateral border closures and stringent inspections, North American

¹¹⁷ See the summary of Robert Keyes' and Perrin Beatty's presentations to the Public Policy Forum Border Conference in Erick Lachapelle. *Canada's Policy Choices: Managing Our Border with the U.S.* Ottawa: Public Policy Forum, 2001.

¹¹⁸ John Kingdon (1984) *Agenda's Alternatives, and Public Policies*, Toronto: Longman.

¹¹⁹ Sideny Tarrow. *Power in Movement: Social Movements and Contentious Politics, Second Edition*. Cambridge: Cambridge University Press, 1998, p.77. In an unpublished paper entitled, "11 September 2001: Mobilizing Business Interests for Further Economic Integration," I use resource mobilization theory to examine the push for further economic integration as a dominant social movement.

business interests created the Coalition for Secure and Trade Efficient Borders on October 3 2001. This single-issue pressure group, composed of over forty Canadian business industry associations and individual companies,¹²⁰ was organized in order to:

- recommend measures to facilitate the passage of low-risk goods and people across Canada’s borders;
- recommend ways to strengthen Canadian security and intelligence, immigration and refugee determination and border processing; and
- increase cooperation between Canada and the U.S. and other allies to prevent the entry of terrorists, illegal immigrants, contraband and illegal goods into our countries.¹²¹

In addition to sending letters to Canadian Prime Minister Jean Chretien outlining their recommendations,¹²² the Coalition released a number of reports, received positive media coverage,¹²³ and made several presentations at important policy conferences. In their first policy document, the Coalition urged Ottawa to present “a comprehensive and integrated solution” to security and border issues in the wake of 11 September 2001.¹²⁴ Substantively, the Coalition touted the “risk management” strategy it helped develop in conjunction with CCRA, and recommended a perimeter approach to securing the Canada-U.S. border based on three lines of defence: at offshore points of departure; continental points of entry; and, at the Canada-U.S. border.¹²⁵ Recognizing that many Canadians would resist a forced harmonization of Canadian policies to conform with American security concerns, the Coalition stressed that “a perimeter or zone of confidence approach [would not] mean erasing the Canada-U.S. border, and it [would not] mean Canada has to adopt American policies.”¹²⁶

¹²⁰ Confirmed members as of October 31, 2001 included Air Canada, Aerospace Industries of Canada, Air Transport Association of Canada, Association of Canadian Port Authorities, Association of International Automobile Manufacturers of Canada, Automotive Parts Manufacturers’ Association, Business Council on National Issues, Canada Post, Canadian Airports Council, Canadian Advanced Technology Alliance, Canadian Association of Importers and Exporters Inc., Canadian Courier Association, Canadian Chamber of Commerce, Canadian Chemical Producers’ Association, Canadian Council for International Business, Canadian Federation of Independent Business, Canadian Manufacturers & Exporters, Canadian Steel Producers Association, Canadian Trucking Alliance, Canadian Vehicle Manufacturers’ Association, Can-Am Border Trade Alliance, Information Technology Association of Canada, Japan Automobile Manufacturers Association of Canada, Ontario Trucking Association, PBB Global Logistics, Pratt & Whitney Canada, Private Motor Truck Council of Canada, Railway Association of Canada, and the Retail Council of Canada.

¹²¹ The Coalition for Secure and Trade Efficient Borders. “About the Coalition.” <http://www.cme-mec.ca/coalition/english/about.html>, last viewed on 02/24/02.

¹²² The first of these is dated November 13, 2001 while the second is dated December 3, 2001. Both were available on the Coalition’s web site. The site no longer exists.

¹²³ See for example: Heather Ccoffield, “Business Coalition Pushes for Common Border Rules,” *Globe and Mail*, December 3, 2001; and, Alan Toulon, “Business coalition backs creation of perimeter” *The National Post*, Wednesday, October 4, 2002, A1.

¹²⁴ The Coalition for Secure and Trade Efficient Borders, “Rethinking our Borders: Statement of Principles,” 1 November 2001.

¹²⁵ Ibid.

¹²⁶ Statement of Principles. *op. cit.*

In a second and more comprehensive document entitled, *Rethinking Our Borders: A Plan for Action*, the Coalition outlined a total of seventy-seven recommendations grouped in the areas of customs and border management, immigration and security, and transportation infrastructure.¹²⁷ Key themes in the text included emphasis on the differences between Canadian border issues versus those at the Mexican border, the importance of technology in border management, a call for Canada to demonstrate policy leadership, and a statement regarding the importance of industry in working with government on solutions and communicating these to the public.¹²⁸ The report also emphasized the inter-linkages between security and trade. Canada's economic security, the Coalition argued, depended on an open border, which required that Ottawa do everything it needed to satisfy an increasingly security-obsessed Washington. "Without efficient access to the U.S., companies will be reluctant to establish or expand operations in Canada."¹²⁹ In these lights, Canada would have to take "quick and decisive action" to increase cooperation in the short term, and work towards increased integration in the longer term, lest it lose the foreign investment upon which thousands of Canadian jobs depend.¹³⁰

Within the Coalition, the CME played an exceptionally important role. Although the organizational flow chart highlights no single member as leader of the group, Perrin Beatty quickly established himself as the Coalition's most prominent figure. As former minister of Defence in the Mulroney government and current President & CEO of the CME, Beatty appeared everywhere – speaking at conferences, meeting with senior officials and bureaucrats in Canada and the U.S., and appearing before the Standing Committee on Foreign Affairs and International Trade – where he wore several "hats." In addition to raising the Coalition's public profile, Beatty was actively engaged with the American National Association of Manufacturers (NAM) and the CAN/AM Border Trade Alliance in an effort to garner an American commitment to a shared border agreement.¹³¹ Through such activity, and in an excellent example of transnational business cooperation on issues of continental governance, the CME exerted a great deal of influence in both Ottawa and Washington, with implications for Mexico City as well.

Securing the Perimeter: the "Smart Border Accords"

The clearest evidence of the Coalition's influence on the post-11 September continental policy agenda can be found in the signing of "smart border" accords between Canada, the U.S. and Mexico. In Canada, a 30-Point Smart Border Plan was signed by Homeland Security Advisor Tom Ridge and his Canadian counterpart John Manley in

¹²⁷ A Plan for Action, *op. cit.*

¹²⁸ Ibid.

¹²⁹ Ibid.

¹³⁰ Statement of Principles, *op. cit.* p.1.

¹³¹ Stephen Clarkson and Maria Banda, "Community of Law: Proposals for a Strategic Deal with the United States," Paper presented to the CERLAC and CCPA conference, "Canada, Free Trade and Deep Integration in North America," October 15, 2003, p.4.

Ottawa on December 12, 2001.¹³² The Plan's four pillars borrowed heavily from the Coalition's proposals, as seen in its adoption of a risk-management approach to peoples and goods crossing the border, emphasis on identifying potential threats offshore, investing in technology and infrastructure, and, strengthening cooperation and information-sharing amongst law enforcement agencies.¹³³ Three months after the signing of the Canada-U.S. accord, *and reflecting the hub-and-spoke nature of North American governance*, the U.S. signed a similar 22-Point Smart Border Accord with Mexico on March 22, 2002.¹³⁴ Though the U.S. eschewed a trilateral approach, here again, the influence of transnational business' proposals was clearly evident. Like the Canadian agreement, the Mexico-U.S. agreement referred to investments in border technology, electronic information sharing and pre-clearance procedures.¹³⁵ Other Canadian-inspired proposals such as consultations on visa policy harmonization and screening of third-country nationals also made their way into the Mexican agreement.¹³⁶

Notwithstanding the impact of these agreements on reducing the skewed character of Canada-U.S. versus Mexico-U.S. border relations, significant (if only a few) differences in the agreements existed, reflecting an integration strategy *à deux vitesses*. While Americans now saw the Canada-U.S. border as a security concern, its separate border agreements with Canada and Mexico reflected disparate realities along the American southern and northern borders. For instance, the Canada-U.S. border accord was virtually silent on issues such as migrant trafficking, emphasizing instead threats to security emerging from outside the common "zone of confidence." This important difference aside, it is worth noting that since signing their border agreement, various projects mirroring business-designed proposals in Canada have been initiated at the Mexico-U.S. border (e.g. the Free and Secure Trade Lanes, FAST, and the Secure Electronic Network for Travelers Rapid Inspection, SENTRI),¹³⁷ suggesting that in the eyes of American policy-makers, differences between the Canadian and Mexican borders with the U.S. decreased.

In addition to its role in bringing Canada, the U.S. and Mexico into agreement on its proposal for implementing smart borders,¹³⁸ the influence of the business lobby could also be seen in other initiatives undertaken by the Canadian government following the 2001 terrorist attacks. First, Attorney General John Ashcroft, Solicitor General Lawrence

¹³² Department of Foreign Affairs and International Trade, "Building a Smart Border for the 21st Century on the Foundation of a North American Zone of Confidence," <http://www.dfait.gc.ca/can-am/menu-en.asp?act=v&mid=1&cat=10&did=1669>, last viewed on 3/26/2005.

¹³³ Department of Foreign Affairs and International Trade, "Action Plan for Creating a Secure and Smart Border," <http://www.dfait.gc.ca/can-am/menu-en.asp?act=v&mid=1&cat=10&did=1670>, last viewed on 3/26/2005

¹³⁴ U.S. Department of Homeland Security, "U.S.-Mexico Border Partnership Joint Statement on Progress Achieved," *Press Release*, April 23, 2003.

¹³⁵ *Ibid.*

¹³⁶ *Ibid.*

¹³⁷ See: Benjamin Hyman, "U.S.-Mexico Border Security" paper submitted to Professor Stephen Clarkson, July 13, 2004.

¹³⁸ It should be noted that it was never the intention of Canadian business to have their proposals adopted along the Mexico-U.S. border. Indeed, Canadian business' compete with Mexican firms for foreign investment and access to the U.S. market.

MacAulay, and Minister of Citizenship and Immigration Canada, Elinor Caplan, signed a Memorandum of Cooperation that addressed common border security and immigration priorities in the December 3rd “Joint Statement of Cooperation on Border Security and Regional Migration.”¹³⁹ This agreement set the stage not only for the smart border accord signed on December 12, 2001 and discussed above, but also for the harmonization of visa requirements and a safe-third-country agreement, which would require that refugees claim protection in the first safe country they arrive in.¹⁴⁰ A week later, Paul Martin (who publicly expressed his desire to “erase” the border for business)¹⁴¹ announced in his early December “Border Budget” that \$CDN 7.7 billion would be allocated to enhance security over the next five years, with \$CDN 1.2 billion allocated to ensure a “secure, open and efficient border.”¹⁴² The budget was followed by the Canada-U.S. Smart Border Accord (discussed above), which developed an “action plan” for creating a border that was both “smart” and “secure.”¹⁴³ Both the “Border Budget” and the border “action plan” borrowed exact phrases from a Coalition for Secure and Trade Efficient Borders’ policy document, reflecting the influence of the business lobby on the formulation of Canadian public policy.¹⁴⁴

Although Canadian government officials like Prime Minister Chretien and his cabinet publicly expressed coolness to U.S. calls for policy harmonization, both Finance Minister Paul Martin and Immigration Minister Elinor Caplan expressed their desire to cooperate more closely with the U.S. on harmonizing border management policies as well as on refugee and visitor visa screening policies.¹⁴⁵ Moreover, senior bureaucrats at the working level spoke much more openly about what the new initiatives actually entailed. While officials from DFAIT spoke explicitly about “harmonization” during the CUSP process, an official from CCRA publicly advocated perimeter defence and harmonization of Canada/U.S. processes.¹⁴⁶ Despite rhetoric claiming otherwise, the initiatives undertaken by the Chrétien government marked a movement toward bringing Canada closer to the establishment of a perimeter (or “zone of confidence”) approach to border

¹³⁹ Department of Justice. “Joint US-Canada Statement on Northern Border Priorities” available at: http://www.usdoj.gov/opa/pr/2001/December/01_ag_626.htm, last viewed on 12/4/01. See also, Citizenship and Immigration Canada, “Canada-United States Issue Statement on Common Security Priorities,” available at: <http://www.cic.gc.ca/english/press/01/0126-pre.html>, last viewed on 12/4/01.

¹⁴⁰ Citizenship and Immigration Canada, “Final text of the Safe Third Country Agreement,” <http://www.cic.gc.ca/english/policy/safe-third.html>, last viewed on 2/18/2005.

¹⁴¹ Eric Beauchesne, “Erase border for business, Martin urges,” *The Ottawa Citizen*, Thursday November 15, 2001, D1.

¹⁴² Department of Finance, Canada. *The Budget in Brief, 2001*, Ottawa: Department of Finance, 2001, pp.8-10

¹⁴³ Department of Foreign Affairs and International Trade. “Canada-U.S. Smart Border Declaration.” Available at: http://webapps.dfait-maeci.gc.ca/minpub/Publication.asp?FileSpec=/Min_Pub_Docs/104779.htm, last viewed on, 4/3/02.

¹⁴⁴ See the Coalition’s Statement of Principles, *op. cit.*

¹⁴⁵ See Eric Beauchense, “Erase border for business Martin urges,” *The Ottawa Citizen*, Thursday, November 15, 2001, D1 and Campbel Clark, “Canada in talks with U.S. on pact dealing with refugees, visitor visas,” *The Globe and Mail*, Friday, October 26, 2001.

¹⁴⁶ See the CUSP Forum Report and summary of Greg Goatbe’s presentation in R. Cloutier, “Making the Northern Border Work,” *op. cit.* p.13.

management, and reflected the important role of business in North America's continental governance.¹⁴⁷

BCNI/CCCE Again: Pushing the "Big Idea"

If the CME played a key role in implementing "smart borders" shortly after 11 September 2001, the CCCE has been relatively more active in pursuing the continental agenda since the attacks. Reflected in Donald Macdonald's call for a new Royal Commission to examine North American integration in the new security context, the issue since 11 September 2001 has evolved into much more than just the border.¹⁴⁸ In the context of a debate over what advocates call the "big idea," and critics, "deep integration,"¹⁴⁹ the CCCE has proposed a framework for managing the future of North American governance based on five pillars: reinventing borders; maximizing regulatory efficiencies; negotiating a comprehensive resource security pact; reinvigorating the North American defence alliance; and creating a new institutional framework.¹⁵⁰ In an effort to bring their proposals to fruition, the CCCE has engaged in traditional and non-traditional approaches to lobbying.

On the one hand, the CCCE continued their tried-tested-and true practice of visiting policy-makers in the U.S. in order to apply domestic and international pressure on the Canadian government for policy change. In April 2004, shortly after the publication of *New Frontiers*, over 100 CEOs belonging to the CCCE traveled to New York and Washington in order to air their proposals in the corridors of power. Though similar to their visit before the CUFTA negotiations, the Council was this time accompanied by then Minister of International Trade, James Peterson, and former deputy Prime Minister, John Manley, and met with White House Chief of Staff, Andrew Card, National Security Advisor, Condoleezza Rice, Homeland Security Advisor, General John Gordon, and New York Senator, Hillary Clinton.¹⁵¹ Since their visit, U.S. President Bush, Mexican President Fox, and Canadian Prime Minister Martin announced the *Security and*

¹⁴⁷ Interestingly, not all law enforcement agencies were in favour of further integration. At a House of Commons Standing Committee on International Trade, the Canadian Police Association argued that a more open border could lead to "...the proliferation of crime in areas such as gun trafficking, drug trafficking and transport of illegal immigrants, as well as entry into Canada of violent criminals seeking safe haven or refuge." Echoing these sentiments, John Manley is on the public record warning that Canadian's have more to fear from the U.S. than Americans do from Canada. See: Canadian Police Association. "Justice Reform Resolution on Open Borders," Presentation to the House of Commons Standing Committee on International Trade, October 31, 2001; and, Joe Lauria, "Manley Blasts Border Myth," *The Ottawa Citizen*, Tuesday November 6, 2001, A1 & A2.

¹⁴⁸ Drew Fagan. "Donald Macdonald: Royal Commission anew," *The Globe and Mail*, April 12, 2002, p.B15.

¹⁴⁹ For an ambitious proposal, see: Wendy Dobson, "Shaping the Future of the North American Economic Space: A Framework for Action." *Commentary – Border Papers* C.D. Howe Institute, April 2002. For a more critical perspective, see: Andrew Jackson, "Why the 'Big Idea' is a 'Bad Idea': A Critical Perspective on Deeper Integration with the United States," *Canadian Centre for Policy Alternatives*, June 2003.

¹⁵⁰ Canadian Council of Chief Executives, "New Frontiers: Building a 21st Century Canada-United States Partnership in North America," April 2004.

¹⁵¹ Gillian Cosgrove, "CEOs Lobby Americans to Boost Ties," *National Post*, April 19, 2004, A1.

Prosperity Partnership of North America (SPP), which an influential, high-level Independent Task Force on the Future of North America has endorsed.¹⁵²

On the other hand, and in addition to supporting the Task Force (of which John Manley is a participant), the CCCE is now working closely with its counterparts in the U.S. (with the Business Roundtable) and Mexico (with the Consejo Mexicano de Hombres de Negocios). Recognizing the hub-and-spoke nature of North American governance but also the necessity of including Mexico in any forward-looking proposal for North America, the CCCE has demonstrated itself to be more open to engaging with the Mexicans than has the CME.¹⁵³ In April 2005 the three business organizations established a trilateral business initiative in which they agreed to "...coordinate efforts to encourage their respective governments to move ahead as quickly as possible in implementing the agenda laid out in the SPP."¹⁵⁴ This strategy clearly reflects recognition on behalf of business that through coordination of their individual lobbying activities specifically targeted toward the three national governments, transnational corporate cooperation can contribute to a form of continental governance where the explicit goal is to persuade usually uncooperative governments to harmonize and coordinate their distinctive national policies.

Conclusion

Despite a lack of formal institutions of governance for North America, continental governance still occurs as a result of each country being "governed" in a coordinated way by similar players acting in unison but on their own. Indeed, our analysis has highlighted several strategies employed by business in order to contribute to North American hub-and-spoke style of governance. From our observations, we offer three concluding reflections on the nature of governance in North America and business' role therein.

First, business associations and their associated networks, coalitions and lobbies are key participants in North American governance.¹⁵⁵ As actors in the domestic arena, business associations and business-funded think-tanks facilitate communication between business and government officials, produce research publications in conjunction with like-minded academics, present business' view on public issues at various conferences, parliamentary/congressional committees and other consultative fora, and participate in public-private partnerships of various sorts. As actors in the international sphere, business associations engage in cross-border lobbying, build transnational alliances, and

¹⁵² Paul Koring, "Task Force Urges Joint Security Perimeter," *Globe and Mail*, April 14, 2005, A1.

¹⁵³ This might have to do with CCCE's refusal to let the United States adopt what Chris Sands has called a "lowest-common denominator" approach to North American integration. Instead of integrating only as fast as appropriate to the least developed country, the CCCE prefers beginning with a broad, comprehensive vision, and then proceeding *à deux vitesses*, where necessary.

¹⁵⁴ Canadian Council of Chief Executives, "North American Business Leaders Join Together to Support Strategic Initiative on Security and Prosperity," *Press Release*, April 18, 2005.

¹⁵⁵ Although in theory, nothing prevents civil society groups from participating in processes of governance, and clearly other work in this volume demonstrate the importance of such groups. *Business is not uniquely responsible for North American governance activities*; however, when setting the broader agenda for North America, business seems to be the most important societal actor.

meet with foreign government officials in order to apply international pressure on their domestic governments. Through such activity, business performs several important governance functions, including: agenda setting; alternative specification; information provision; consensus formation; legitimation; and ultimately, legislating policy change.

Second, as a result of forces commonly grouped under the catchphrase “globalization,” business interests are converging. Though Canadian manufacturers continue to compete with Mexico for foreign investment and access to the U.S. market, such competition in the market place is beginning to give way to cooperation in the public sphere. This is largely the result of processes that might be called, “internationalization.”¹⁵⁶ When firms become “internationalized,”¹⁵⁷ their preferences for protection begin to change as they come to favour open borders and a liberal environment more generally. In the post-11 September 2001 security environment, business associations realized that they needed to work together in order to ensure that changes to North American governance respected their interests. As evidenced by the CCCE-BRT-CMHN trilateral connection, working together but separately has become the new transnational strategy as business attempts to influence policy in a hub-and-spoke environment lacking a formal institutional toehold.¹⁵⁸ Indeed, one of the most striking elements of North American governance here described is the speed with which business has organized transnationally, which has occurred even more quickly than the three governments’ ability to cooperate and reach agreement on a common set of rules.

Third, analysing business-government relations is key for assessing the nature and content of governance processes in North America. Through our analysis, we’ve seen that although continental asymmetries have not decreased, simple claims that “security trumps trade” need to be qualified by the existence of a powerful commercial lobby in Washington that shares with its foreign counterparts an interest in open borders. In a different vein, our analysis of the ease with which business proposals were implemented at *both* American borders reveals that the skewed quality of Canada-U.S., Mexico-U.S. relationships is decreasing. On the question of how integration occurs, we find in the business community different visions of integration within a hub-and-spoke framework, ranging from uniquely trilateral approaches, to integration *à deux vitesses*, and finally, the “lowest common denominator” approach. Analysing the role of business in North American governance can help to explain the puzzle with which we began this paper, and also shed light on the ways in which business copes with such a lack of formal institutions to lobby. Future work wishing to analyse the North American governance

¹⁵⁶ Internationalization has been defined by Keohane and Milner as “the processes generated by underlying shifts in transaction costs that produce observable flows of goods, services, and capital.” See: Robert O. Keohane and Helen V. Milner, eds. (1996) *Internationalization and Domestic Politics*, New York: Cambridge University Press, p.4.

¹⁵⁷ One could measure “internationalization” in terms of trade dependence and the extent to which one’s production has been “multinationalized.” See Helen Milner (1988) *Resisting Protectionism*, Princeton, N.J.: Princeton University Press.

¹⁵⁸ In addition to the empirical cases discussed above, a recent defence of NAFTA’s Chapter 11 in the *Financial Post* was written by business leaders from all three North American countries. See: Thomas d’Aquino, John Castellani and Juan Gallardo, “Chapter 11: NAFTA needs it,” *National Post*, May 29, 2003.

trajectory should look closely at business' proposals for the future of North America, and at their (transnational) lobbying activities/strategies.