EXPERTS' MEETINGS

THE NORTH AMERICAN DIALOGUE

Proposals for Public Policies

Canada, Mexico and the Future of Trilateralism in North America

Louis Belanger

February 2
2010

CEDAN | Tecnológico de Monterrey

***North American Dialogue Series*, No. 8.**

January-June, 2010

Canada, Mexico, and the Future of Trilateralism in North America

Louis Bélanger

Canada and Mexico have one shared central national interest. It is the preservation of preferential access to their common neighbour's market for goods, services, and investment; a market on which both economies are so vitally dependant. Currently, this preferential treatment is essentially ensured by the North American Free Trade Agreement (NAFTA) which they signed with the United States in 1992. In the hypothetical situation where, through renunciation or neglect, NAFTA ceased to be enforced tomorrow, Canada and Mexico would still obviously benefit, like others, from the relatively high level of access to the American market guaranteed by WTO rules. However, they would indeed become just like others, no longer enjoying the exclusive treatments and recourses enshrined in NAFTA's 22 chapters, 295 articles, 90 annexes and several appendices. In fact, they could be in a worse situation than many others, given that Washington has negotiated similar—but not necessarily equivalent—free trade agreements with no less than eighteen countries since NAFTA came into force.

Many of its critics maintain that North-American trilateralism is flawed because there is no real community of interests between Canada and Mexico "beyond the NAFTA treaty itself" (Daudelin 2003, p. 10; see also From Correct to Inspired 2009, p. 15). In this short paper, I will argue, rather, that NAFTA's preservation and maintenance is, in itself, more than a sufficient reason for Canada and Mexico to commit to a trilateral agenda. Furthermore, recognition of this common interest should lead Canada and Mexico to strategically develop more substantive bilateral relations. If Canada and Mexico are not able to get their act together and pursue a coordinated trilateral strategy in defence of the NAFTA advantage, they will lose it. This will happen for three reasons. First, if nothing is done, NAFTA's comparative edge will erode as its provisions will become obsolete and outmatched by more

ambitious trade agreements negotiated by the United States or overseas regional blocs. Second, if something is to be done about it, it is highly inconceivable that a solution could be negotiated bilaterally; concessions offered by Washington to Ottawa will also have to be offered to Mexico City, and vice versa. Furthermore, the type of institutions that will be needed to secure the NAFTA advantage cannot realistically be decoupled along bilateral lines. Third, due to evident asymmetries in power and relative dependence, Washington will not take the initiative in favour of a reinvigorated North American free trade area. The initiative will have to come from the smaller partners and will probably be ignored if Canada and Mexico do not push in the same direction.

1. The Erosion of the NAFTA Advantage

At the time of its inception, more than fifteen years ago, NAFTA was widely recognized as the most advanced and sophisticated trade agreement ever to have been negotiated, giving Canada and Mexico unprecedented levels of preferential access to the world's largest and most competitive market. Since then, however, under the combined effect of further advances in multilateral and "competitive" liberalization, changing regulatory practices, post-9/11 security measures, and technological developments, the agreement's reach, and therefore the NAFTA advantage it provided to Canadians and Mexicans, has shrunk.

For example, chapters 7A and 17, covering agriculture and intellectual property respectively, lost much of their relevance following the entry into force of concurrent WTO obligations. At the same time, the regulatory and technological environments in which several industries evolve, such as telecommunications (Chapter 13) and financial services (Chapter 14), have dramatically changed since they were dealt with in the 1992 agreement (Bélanger & Ouellet, 2010). As for security measures, there is no doubt that the post 9/11 regime of border management, codified in part by the 2001 Canada-United States Smart Border Declaration, the 2002 Mexico-United States Border Partnership Agreement, and their bilateral action plans, has redefined the rules contained in NAFTA's Chapter 5

(Customs Procedures), Chapter 7B (Sanitary and Phytosanitary Measures), and Chapter 16 (Temporary Entry for Business Persons) (See Parks 2004 and Meyers 2003).

The efficiency and competitiveness of NAFTA have also been hindered by its intrinsic limitations. For example, the fact that it resorts to a complex regimen of rules-of-origin (ROO) instead of a common external tariff in order to discriminate between regional and non-regional products, has severely reduced the net benefits provided by the agreement. NAFTA's rules-of-origin system actually opened the door to protectionist manipulations and revealed itself to be costly for both governments to administer and business to comply with (Dymond & Hart 2005; Kunimoto & Sawchuck 2004). The overall cost of having NAFTA operate under a ROO system in comparison to the much more efficient common external tariff system has been estimated, for Canada and Mexico, at over 1 and 5 per cent of their GDP, respectively (Ghosh & Rao 2004, 34). A comprehensive study of the impact of the trade agreement on Mexico's trade flows conclude that "in spite of NAFTA's good performance in terms of utilization rates, tariff preferences are largely offset by ROO and other administrative compliance costs." (Cadot *et al.* 2002, p. 26)

One of the most innovative features of NAFTA, which has not been duplicated in any other free trade agreement negotiated by the United States, is the protection provided for in Chapter 19 against abusive recourses to antidumping and countervailing duty measures. While the record shows that this approach to trade remedies has been hugely beneficial to Canada and Mexico, it also reveals its limitations. The Chapter 19 binational panel review system has been plagued by bureaucratic delays and lengthy extraordinary challenges fuelled by the absence of a common standard of review (Hufbauer & Schott 2005, pp. 249-252), and it has failed to bring peace to the industrial sectors that needed it most, such as Canada's softwood lumber exports and Mexico's cement exports (Adams 2008). Furthermore, Chapter 19 has continuously been under attack in the United States by a powerful coalition of interest groups, lawmakers, jurists, and bureaucrats (See

Zhang & Laband 2005, Monaghan 2007, Zhang 2007), and remains a highly vulnerable benefit.

These are all serious issues, but they may well already be outdated and peripheral. The main point of vulnerability in NAFTA is that it lacks the necessary provisions and institutional resources to tackle the new frontier of trade liberalization, that is, the coordination or harmonization of regulations. The negotiation between Canada and the United States of the Canada-U.S. Free Trade Agreement (CUSTA), and the subsequent negotiation of NAFTA, coincided with the apex of the privatization and market liberalization movement that led to a retreat of the state as a direct provider of public goods in many jurisdictions around the globe. It is even fair to say that for many Canadians and Mexicans, CUSTA and NAFTA are indiscernible features of this movement. Since then, however, the state has reinvented itself as the "regulatory state," steadily extending the scope not only of the regulation of privatized sectors of the economy, but also of what Vogel calls "protective regulations," that is, regulatory activity aimed at protecting consumers, the environment, workers' rights, public health and public safety (Vogel 1995). All these regulations affect trade because differences in domestic regulations impose significant compliance costs on producers operating in different jurisdictions, because they are sometimes used as protectionist non-tariff barriers, and also because trade policies must now take into consideration the views of constituencies that fear that free trade may be used by business owners to simply escape regulations by moving their activities to more accommodating jurisdictions.

The three North American governments recently communicated to the WTO that they estimate the value of their reciprocal trade affected by regulatory barriers to be $715 billion (WTO 2009, p. 2). It is thus becoming increasingly evident that there cannot be a real regional market or free trade area without concordant regulations. Europe, of course, is well ahead of us in this respect (Eberlein & Grande 2005). It should also be noted that regulatory convergence is a central item in the current negotiation of a Comprehensive Economic and Trade Agreement between Canada

and the European Union. The question for North America is: how can we meet this challenge and thus sustain the region's competitiveness?

NAFTA does cover the issue of regulatory discordance, notably through Chapter 9 on Standards-Related Measures and Chapter 7B on Sanitary and Phytosanitary Measures. However, it does so in an antiquated manner, whereby rather than simply looking for common standards, it imposes on the exporting party the burden of proving, to the satisfaction of its trade partners, that its own regulation should be recognized as equivalent to that of the importing parties (Irish 2009, pp. 338-342). This is a fastidious process that does not cover state, provincial or municipal regulations, and that simply cannot fully address our need for a comprehensive treatment of the problem (Hart 2006).

Thus, because of NAFTA's own limitations and suboptimalities, and because, while NAFTA has basically remained the same since 1994, the global level of trade liberalization has continued to rise, notably with the entry of countries such as China into the WTO, Canada and Mexico are suffering from an erosion of the absolute and relative advantage provided by NAFTA.

2. The Sad Fate of the SPP

The creation of the Security and Prosperity Partnership (SPP) in 2005 was in good part an attempt to change this course (Bélanger 2010). Primarily aimed at controlling the negative impact of post-9/11 security measures on transborder trade or, to use the official mantra, "to keep North American borders closed to security threats while open to the movement of legitimate people and goods," the SPP was also an effort to reanimate negotiations among some NAFTA technical working groups. The content of the economic pillar of the SPP, as set out, was "reflective of the fact that the soft political mandate for such negotiations [...] contained in NAFTA (the built-in agenda) had been insufficient" (Anderson & Sands 2007, 14). In 2006, a North American Competitiveness Council (NACC) was

created to provide the SPP with input from the business sector. This new consultative body brought to the process recommendations that clearly aimed at completing NAFTA, in areas such as origin determination, intellectual property, and regulatory convergence (North American Competitiveness Council 2007). The leaders of the three countries also clearly recognized the shortcomings of NAFTA in the area of standards and regulation when they put this issue at the heart of the SPP agenda in 2007 (SPP 2007).

However, the SPP ultimately failed to provide the governance coverage necessary to make up for NAFTA's insufficiencies. Today, it is a moribund process: its mechanics of ministerial coordination were not activated during the last North American Leaders' Summit in Guadalajara, in August 2009, and the U.S. SPP website currently indicates that: "This website is an archive for SPP documents and will not be updated." (DOC 2010; see also Davis 2009a)

Many analysts and critics have identified flaws in the SPP process which can help explain why it ultimately failed. According to Anderson & Sands, one important problem with the SPP was that, since the process was not legally-binding and was carefully designed to operate within the limits of the constitutional and administrative authority of the executive branch of each state, it could not really cope with NAFTA+ and other trade-related issues, which, in the American system of government at least, require legislative actions and thus the involvement of Congress (Anderson & Sands 2007). I, on the other hand, have tried to demonstrate that the SPP model could have been made much more effective not by directly involving the legislative branches, which would have brought us back to the rigidities that characterize NAFTA, but rather by creating a converging point of decision-making where politically-binding regional rules could have been enacted and their implementation monitored (Bélanger 2010). Many other observers maintain that the SPP's lack of transparency and democratic legitimacy are to blame for its demise (Ayres & Macdonald Forthcoming; see also Foster 2010). Of course, Canadian bilateralists simply think that Canada's and Mexico's national

interests in dealing with the U.S. are too distinct to be dealt with in a trilateral format such as that imposed by the SPP. (See Savage 2008)

While I have tried, thus far, to dismiss the bilateralist view, it is nevertheless puzzling to realize how little cooperation there has been between Canada and Mexico to nurture and eventually rescue the SPP in light of its potential and the lack of alternatives. The SPP contained, in an embryonic form, exactly the kind of soft rule-making institution that a free-trade zone needs to remain competitive in today's global market. Much of the "NAFTA+" liberalization agenda that was brought in during the SPP process consisted of non-traditional trade issues, such as regulatory cooperation and border security issues, which are usually dealt with internationally through soft rule-making, in comparison to the hard rule-making device that NAFTA represents (Bélanger 2010). This is mainly how regulatory convergence is being achieved in Europe; through executive-to-executive, non legally-binding international cooperation (Eberlein & Grande 2005; Trubek, Cottrell & Nance 2006). North America is not Europe, of course, but we are not talking about supranationalism here, and the U.S. regularly relies on "soft" executive-level, non-treaty international institutions such as the SPP for regulating the global economy. An apt example is the Financial Stability Board, to which the United States and the other members of the G20, in the aftermath of last year's financial crisis, have given the responsibility of promulgating a new set of financial regulatory standards (Financial Stability Forum 2009).

The key to the success of this softer kind of regional liberalization is to be able to bring together executive agencies that already benefit from relatively high levels of discretion in exercising their regulatory mandates. And this is exactly what the SPP did. It broke with the traditional pattern of trade negotiations and brought to the table agencies such as, on the United States side, the Department of Transportation, the Environmental Protection Agency, the Department of Energy, and the Department of Agriculture, agencies that, in the U.S., benefit from high levels of autonomous regulatory authority. Looking again at the United States'

participation only, at least ten departments and independent agencies, pooling a substantive amount of regulatory power, participated in the working group of the SPP's "Prosperity basket" alone. (Bélanger 2010)

Do Canadians and Mexicans really think that they can achieve the objective of securing and revitalizing NAFTA without a trilateral coordinating device such as the one provided by the SPP? The idea, supported by Canadian bilateralists, of replacing the SPP, with its annual leaders' summit, its mechanism of ministerial coordination and its twenty working groups, by two, three or even four equivalent processes — one for "Upper North America", one for "Lower North America", one for "Across North America" and eventually one for "Fly Over North America" (From Correct to Inspired 2009, p. v and 15) —, strikes me as politically unrealistic, especially from the Washington perspective. Why would the U.S. want to multiply these schemes? What would be the rationale and the public justification, before Washington's Latino constituency, for a two-tier integration process wherein Mexico would appear as the third leg? (Davis 2009b) Defending this proposal, the final report of last year's Canada-U.S. Project suggested reviving the defunct Canada-U.S. Partnership (CUSP). But we should remind ourselves what the CUSP was and how little it achieved. Launched by Jean Chrétien and Bill Clinton in October 1999, the CUSP was essentially a consultative process on border management issues, which was supposed to involve government officials, stakeholders and border communities. Basically, two meetings were held in border communities in the Ontario-New York and British Columbia-Washington border areas during the spring of 2000, one report was written, and the initiative did not survive in the post-9/11 security context. If the CUSP is illustrative of anything, when compared to the SPP, it is the comparative advantage that trilateralism can offer Canada and Mexico, in terms of political leverage, compared to bilateralism.

3. A Strategic Bilateral Partnership Beginning with Origin Accumulation

If Canada and Mexico hope to save NAFTA from decrepitude and build a stronger, more competitive North American market, they will have to do a better job of coordinating their views and expectations about what the future of the region should be in terms of economic integration. And this cannot be achieved without much stronger bilateral relations.

While they were participating in the SPP process, Canada and Mexico did not find it necessary to develop a separate strategic bilateral trade relation. Although trade was clearly identified as a top priority of the Canada-Mexico Partnership (CMP), with a cooperation mechanism established by the two governments in 2004, the discussions nevertheless stalled. When the CMP published its first annual report in 2008, the Trade and Investment Working Group had nothing to report except changes of co-chairmanships and discussions on the renaming of the group. (Canada-Mexico Partnership 2008, p. 16)

For too long, Ottawa and Mexico City have taken the NAFTA advantage for granted and geared their respective trade diplomacies towards extra-regional targets, a tendency that the demise of the SPP may well reinforce. In fact, this situation probably corresponds to both countries' second or third best interests and is in good part due to their incapacity to efficiently negotiate their preferred options for the region.

From a Canadian perspective, it is Mexico that broke ranks, when it decided in 1995 to negotiate a separate free trade agreement with the European Union at a time when Canadians and Americans where contemplating the possibility of a bi-regional Transatlantic Free Trade Area (TAFTA). It is also Mexico that later rejected the idea, supported by Canada, of a coordinated NAFTA presence at the Free Trade Agreement of the Americas (FTAA) negotiation table. (Bélanger 2007)

It is fair to say, I think, that for many Canadian bilateralists, it is Mexico's fault that the trilateral option, which at first had potential, has lost most of its appeal. In hindsight, they are tempted to say, Canada should have let President Salinas negotiate his own trade agreement with Washington in 1990 instead of asking to join the talks. Derek Burney more or less reaches this conclusion when he writes in an op-ed titled "Our free-trade priorities needn't include Mexico":

> Canada entered NAFTA essentially for defensive reasons, to preserve the benefits of the Canada-U.S. free-trade agreement and to prevent the implementation of a hub-and-spoke pattern of free trade in our hemisphere. NAFTA has been partially successful in this regard, but the fact that each partner has chosen to proceed unilaterally with free trade negotiations globally, as well as in our own hemisphere, tends to dilute the potential that might have been derived if the combined leverage and template of NAFTA had been adopted. (Burney 2008)

From a Mexican perspective, however, it can in fact be argued that it was Canada that failed to live up to true trilateral expectations. In 2000, soon after he became President, Vicente Fox tried to engage his American and Canadian counterparts with his "Vision 20/20" agenda for the deepening of NAFTA, which proposed, among other things, the creation of a customs union (Wilson-Forsberg 2001). While the Mexican proposals and the more general idea of a NAFTA+ received support in Canada from parliamentarians (Canada 2002) and the private sector (CCCE 2003), it was coldly received by the Chrétien government. Fox's European-style model frightened Chrétien, who stuck for most of his three electoral mandates to this mantra: the Canadian government is satisfied with the current provisions of the 1994 agreement (Canada 2003).

What is quite apparent here is that for almost the entire NAFTA era, the Canadian and Mexican governments and political elites developed almost opposite strategic views about the future of the new regional trade area. Mexico, on the one hand,

especially under Fox, sought a deepening of the agreement and opted for unilateral extra-regional alliances as a counterbalancing method. Canada, on the other hand, prioritized enlargement as a strategy to counterbalance the regional dominance of the United States. However, once it realized that this option was not available, Canada joined the fray, multiplying unilateral trade partnerships.

This trend continues today. The current strategic priorities of Mexico's trade policy are the optimization and convergence of its web of existing trade agreements (Secretaria de Economia 2008). Notably, the Mexican government hopes to achieve this goal by "multilateralizing" the ROO requirements currently existing for each of its bilateral agreements and, eventually, merging all its bilateral deals with Central American partners in one single regional agreement. However, NAFTA is not considered by Mexico in this strategy of optimization and convergence. As for Canada, it recently concluded the negotiation of new bilateral trade agreements with Panama, Jordan, Peru and Colombia.

It is interesting to note that all these agreements signed by Canada contain ROO accumulation provisions. Therefore, Canada, like Mexico, is looking for convergence. These provisions, for the purpose of origin determination, in fact incorporate the territory of a third state into the free trade area created by the agreement, when all of the parties to the agreement already have similar trade agreements with this third state (what is technically known as "diagonal cumulation"). It means that, for example, since Mexico already has trade agreements with Canada (through NAFTA) and Colombia (through the G3), Mexico's territory could be "deemed to form part of the territory of the free trade area established by" the Canada-Colombia Free Trade Agreement (Canada-Colombia Free Trade Agreement 2008, art. 306, par.3). However, for this to happen, Mexico and Canada would have to be bound by a similar accumulation provision, which unfortunately does not exist in NAFTA (NAFTA 1993, art. 404).

Thus, Canada and Mexico are both actively seeking to link together their bilateral and regional free trade agreements. But, they are working towards this end basically ignoring each other. To be truly profitable, however, their strategies of regional convergence should include NAFTA. As long as Canadian and Mexican exporters cannot cumulate origin determinations to qualify for entry into the U.S. market, while the U.S. itself is extending its web of bilateral trade agreements, both countries will bear "spoke costs" while the U.S. will benefit from a "hub rent," adding to the deterioration of the NAFTA advantage. (Choi 2010) Here again, the common interest shared by Canada and Mexico ultimately calls for a trilateral solution, but will also require better strategic bilateral cooperation.

In fact, ROO accumulation was part of the SPP agenda. At the 2007 Montebello Summit, the presidents and the prime minister specified that one of the SPP's "next steps" would be to "conduct an analysis of the free trade agreements that each country has negotiated subsequent to the NAFTA, beginning with those in the western hemisphere, including opportunities for innovative provisions on rules of origin." (Joint Statement 2007. p. 6) Mexico and Canada should develop a common strategy in order to save this item of cooperation from the demise of the SPP. If the U.S. is not immediately responsive, they should contemplate the possibility of negotiating a bilateral agreement creating, for the express purpose of origin determination, a Canada-Mexico free trade zone, which would permit diagonal accumulation between NAFTA ROOs and the ROOs of FTAs they have signed with similar partners such as Chile or Colombia. This time, it is the U.S.—not Mexico—that would be welcome to join, when ready.

4. Conclusion

The North American free trade area is losing its competitive edge, and this fact should be more than sufficient incentive for Canada and Mexico to unite their national interests. As the failed experiment of the SPP has eloquently demonstrated, there are no easy solutions when it comes to upgrading the NAFTA

deal and rectifying this situation. With the possible exception of the aforementioned case of rules of origin accumulation, which could be addressed using the traditional tools of trade agreements, all the areas where a deepening of liberalization is needed in the region, from regulatory convergence to the implementation of a common external tariff, would require a very different kind of institution than the ones provided for in NAFTA. There is a need for "softer" institutions, which would permit on-going rule making, rather than the hard and definitive contract that NAFTA remains. The SPP framework contained some of the building blocks of such an institution, but its legal and political foundations were too shaky to absorb the mounting agenda of NAFTA+ issues that it inevitably attracted.

This institutional and, therefore, political requirement renders the task of negotiating a deepening of the NAFTA zone particularly complicated for Canada and Mexico. After all, the U.S. is not an easy partner when it comes to creating new international institutions. Yet, in the past, Americans have repeatedly shown a willingness to commit themselves to different types of "soft" international rule-making bodies (Bélanger 2009). However, with the discouraging demise of the SPP, one can understand the temptation for Canada and Mexico to look the other way, outside the region, and to target easier-to-manage trade priorities. On the other hand, can both countries really afford to let their NAFTA advantage continue to erode? Rather, they should learn lessons from the SPP episode and recognize that this challenge is much more important for them than it is for the U.S., and that they must first develop a common vision and strategy for the region before they will be in a position to convince their American counterpart.

References

Adams, Daniel N., 2008. Back to Basics: The Predestined Failure of NAFTA Chapter 19 and Its Lessons for the Design of International Trade Regimes, *Emory International Law Review*. 22, pp. 205-245.

Anderson, Greg & Sands, Christopher, 2007. *Negotiating North America. The Security and Prosperity Partnership*, Washington: The Hudson Institute (White Paper Series), Summer.

Ayres, Jeffrey & Laura Macdonald, Forthcoming. "Democratic Deficits and the Demise of the Security and Prosperity Partnership of North America: The Role of Civil Society", in Jeffrey Ayres & Laura Macdonald (eds), *North America in Question*, Toronto: University of Toronto Press.

Bélanger, Louis, 2007. Diverging Preferences: The Impact of NAFTA on the Member States' Trade Policies. In Gordon Mace (ed.), *Regionalism and the State: NAFTA and Foreign Policy Convergence*, Aldershot/Burlington: Ashgate Publ., 2007, pp. 33-48.

Bélanger, Louis, 2009. Governance for a Competitive North America: A Canadian Strategy. In *From Correct to Inspired: Blueprint for Canada-US Engagement. Background Papers*, Ottawa: Carleton University, January 19, pp. 165-178.

Bélanger, Louis, 2010. "Governing the North American Free Trade Area: International Rule Making and Delegation in NAFTA, the SPP, and Beyond", *Latin American Policy*, Vol. 1, No. 1, pp. 22-51.

Bélanger, Louis & Richard Ouellet, 2010. Ruling the North American Market: NAFTA and its Extensions. In Gordon Mace, Andrew F. Cooper & Timothy M Shaw (eds), *Inter-American Cooperation at a Crossroads*, London: Palgrave Macmillan, forthcoming.

Burney, Derek H., 2008. Our Free Trade Priorities Needn't Include Mexico – There's a Lot of Canada-U.S. Issues Crying Out for Attention. *The Globe & Mail*, April 7, p. A-13.

Cadot, Olivier, Jame de Melo, Antoni Estevadeordal, Akiko Suwa-Eisenmann & Bolormaa Tumurchudur, 2002. *Assessing the Effect of NAFTA's Rules of Origin*, (Research Unit Working Papers), Laboratoire d'Économie Appliquée, Institut National de la Recherche Agronomique.

Canada, 2002. Partners in North America. *Advancing Canada's Relations with the United States and Mexico. Report of the Standing Committee on Foreign Affairs and International Trade*. Ottawa: House of Commons.

Canada, 2003. *Partners in North America: Advancing Canada's Relations with The United States and Mexico. Government Response to the Report of the Standing Committee on Foreign Affairs and International Trade*. Ottawa.

Canada-Colombia Free-Trade Agreement, 2008. [Retrieved June 3 2010 at http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/colombia-colombie/can-colombia-toc-tdm-can-colombie.aspx]

Canada-Mexico Partnership, 2008. Annual Report 2007-2008.

Canadian Council of Chief Executives (CCCE). 2003. *Security and Prosperity: The Dynamics of a New Canada-United States Partnership in North America*, January 14.

Choi, Won-Mog, 2010. Defragmenting Fragmented Rules of Origin of RTAs: A Building Block to Global Free Trade, *Journal of International Economic Law*, 13(1), pp. 111-138.

Daudelin, Jean, 2003. *The Trilateral Mirage: A Tale of Two North-Americas*. Paper prepared for the Canadian Defence & Foreign Affairs Institute. Ottawa: Carleton University, May.

Davis, Jeff, 2009a. "The SPP's Death Knell has Sounded", *Embassy*, August 26 [http://embassymag.ca/page/printpage/spp_death_knell-8-26-2009].

Davis, Jeff, 2009b. "Trilateralism Vs. Bilateralism, Should Canada Cozy Up to the U.S. While Angling Mexico Out?", *Embassy*, August 5 [http://www.embassymag.ca/page/view/canada_us_mexico-8-5-2009].

Dymond, Bill & Hart, Michael, 2005. *Policy Implications of a Canada-US Customs Union*. Ottawa: Policy Research Initiative ("North American Linkages" series), June.

Eberlein, Burkhard & Edgar Grande. 2005. Beyond Delegation: Transnational Regulatory Regimes and the EU Regulatory State. *Journal of European Public Policy* 12 (1): 89-112.

Financial Stability Forum. 2009. *Financial Stability Forum Re-established as the Financial Stability Board*, Basel, April 2, available at http://www.financialstabilityboard.org/press/pr_090402b.pdf.

Foster, John W., 2010. Renovation Deferred? NAFTA and The Security and Prosperity Partnership, in *Europa World Online*. London, Routledge. [Retrieved 2 June 2010 from http://www.europaworld.com/entry/usac.essay.7]

From Correct to Inspired: Blueprint for Canada-US Engagement. 2009. Ottawa: Carleton University (The Canada-U.S. Project), January 19.

Ghosh, Madanmohan & Rao, Someshwar. 2004. Possible Economic Impacts in Canada of a Canada-US Customs Union. *Horizons* 7(1), July, pp. 32-4.

Hart, Michael, 2006. *Steer or Drift? Taking Charge of Canada-US Regulatory Convergence*. C.D. Howe Institute ("Commentary," No. 229), March, p. 9.

Hufbauer, Gary C. & Schott, Jeffrey J., 2005. *NAFTA Revisited: Achievements and Challenges*. Washington (DC): Institute for International Economics.

Joint Statement. Prime Minister Harper, President Bush and President Calderon. North American Leaders' Summit. Montebello, August 21.

Kunimoto, Robert & Sawchuck, Gary, 2004. Moving Toward a Customs Union: A Review of the Evidence. *Horizons*, 7(1), July, pp. 23-31.

Meyers, Deborah Waller, 2003. Does "Smarter" Lead to Safer? An Assessment of the US Border Accords with Canada and Mexico. *International Migration*, 41(4), pp. 5-42.

Monaghan, Henry Paul. 2007. Article III and Supranational Judicial Power. *Columbia Law Review*, 107 (4), pp. 833-882.

North American Free Trade Agreement (NAFTA), 1993. Ottawa: Acquisitions and Services Canada.

North American Free Trade Agreement Technical Working Group on Pesticides (NAFTA TWGP), 2009. *Accomplishments Report for the Period of 2003-2008*.

Parks, Joseph L., 2004. The United States – Canada Smart Border Action Plan: Life in the FAST Lane. *Law and Business Review of the Americas*, 10(2), pp. 395-416.

Savage Luiza Ch., 2008. "Ditch the Sombreros. Should Ottawa Quit a Continental Strategy and Go Back to One-on-one with the U.S.?", *Macleans*, April 16, p. 29.

Secretaria de Economia, 2008. *Negociaciones Comerciales Internacionales de México*, November 24. [Retrieved June 3 2010 from http://www.economia.gob.mx/swb/es/economia/p_negociaciones_comerciales_internacionales]

Security and Prosperity Partnership (SPP). 2007. *Canada/United States/Mexico SPP Regulatory Cooperation Framework*, August 18. [http://www.spp-psp.gc.ca/eic/site/spp-psp.nsf/eng/00095.html]

Trubek, David M., Patrick Cottrell & Mark Nance (2006). "'Soft Law', 'Hard Law' and EU Integration" in Grainne de Burca & Joanne Ascott (dir.), *Law and New*

Governance in the EU and the US, Oxford and Portland (OR): Hart Publishing, pp. 65-94.

US Department of Commerce, 2010. *SPP.GOV: A North American Partnership*. [http://www.spp.gov/]

Vogel, David, 2005. *Trading Up: Consumer and Environmental Regulation in a Global Economy*, Cambridge (MA): Harvard University Press.

Wilson-Forsberg, Stacey, 2001. *Overcoming Obstacles on the Road to North American Integration: A View From Canada*, Ottawa: The Canadian Foundation for the Americas, Policy Paper FPP11-01.

WTO, World Trade Organization, 2009. *The Importance of Regulatory Cooperation for Improving Governments' Ability to Fulfil Legitimate Policy Objectives While Facilitating Trade: The North American Experience*. Committee on Technical Barriers to Trade (document G/TBT/W/317), June 15.

Zhang, Daowei & Laband, David. 2005. From Senators to the President: Solve the Lumber Problem or Else. *Public Choice*, 123, 393-410.

Zhang, Daowei. 2007. *The Softwood Lumber War. Politics, Economics, and the Long U.S.-Canadian Trade Dispute*, Washington, DC: Resources for the Future.