



# TRIUMVIRATE

North America's First Interparliamentary Simulation  
North-American Forum on Integration  
Last modified : March 18, 2005

## **COMMISSIONS GUIDE**

## TABLE OF CONTENTS

<b>1. Topics for political commissions</b>	<b>3</b>
a) Les corridors commerciaux en Amérique du Nord	3
-Bibliographie	9
b) NAFTA'S Chapter 11	11
-Apendix 1	16
-Apendix 2	18
-References	22
c) La eficiencia energética y fuentes renovables de energía	23
-Bibliografía comentada	27
d) Immigration: balancing prosperity, rights and security	36
-Bibliography	40
<b>2. Functions</b>	<b>43</b>
a) Legislator	43
b) Journalist	44
c) Lobbyiste	45
<b>3. Awards</b>	<b>46</b>
<b>Appendix – Model of Preliminary draft of resolution</b>	<b>47</b>

You will be called upon, within the framework of the Triumvirate, to represent a legislator of a federal or federated North American State, a journalist, or even a representative of an interest group. Before the start of the simulation, you must be familiar with the roles and obligations of each function and the four topics that will be discussed during the Triumvirate. In each text of presentation of the four topics, possible courses of action are presented in order to help you write your preliminary draft resolution. Each of the four themes will be the object of a specific political commission; each commission will take place in one of the three official Triumvirate languages. The commission working on Trade corridors will take place in French, the one on Immigration and Chapter 11 will take place in English and the commission working on Renewable energy and Energy efficiency will be in Spanish.

# 1. TOPICS FOR POLITICAL COMMISSIONS

## a) Les corridors commerciaux en Amérique du Nord

### *Contexte général*

Depuis la signature de l'accord de libre-échange d'Amérique du Nord (Aléna), nous avons assisté à une importante augmentation des flux commerciaux entre les trois pays nord-américains. En fait, « depuis 1991, le commerce entre le Canada, les États-Unis et le Mexique s'est en effet accru de 9% par année. Cette augmentation a provoqué une montée en flèche du trafic routier, ferroviaire, portuaire et aéroportuaire, avec comme résultat des délais d'attente et des embouteillages importants, particulièrement aux postes frontières nord-américains. Ainsi, l'augmentation du volume des biens échangés dépasse aujourd'hui la capacité d'absorption de nos routes<sup>1</sup>, ponts, chemin de fer et postes frontaliers.<sup>2</sup>

Bien que cet engorgement des réseaux de transport découle de la signature de l'Aléna, celui-ci ne fournit pas de cadre politique, légal ou institutionnel qui permette de répondre aux besoins occasionnés par les échanges commerciaux accrus. Cette absence de considération pour les enjeux liés au transport vient aujourd'hui limiter les retombées commerciales pouvant résulter de l'ALÉNA.

D'entrée de jeu, soulignons que les réseaux de transport des trois pays ne sont pas adaptés aux nouvelles exigences découlant de l'ALÉNA du fait qu'ils ont été conçus à une époque où les échanges entre les partenaires nord-américains étaient beaucoup moins développés. Ainsi, au Canada et aux États-Unis, les systèmes de transport routier et ferroviaire ont essentiellement été développés suivant un axe est-ouest, afin d'en relier les côtes atlantique et pacifique, et pour relier les grands centres urbains entre eux, sans grande ouverture vers le(s) pays voisin(s). Au Mexique, le réseau s'est plutôt développé selon un axe nord-sud, mais il a surtout visé à connecter chacune des régions avec la capitale Mexico.

Ainsi, les points de connections entre les réseaux de transport des partenaires de l'ALÉNA sont sous-développés. De ce fait, les quelques points de passage sont particulièrement achalandés. Par exemple, 70% du trafic commercial US-Mexico transite par le Texas pas moins de 34% des échanges commerciaux provenant du nord entrent par Laredo.<sup>3</sup>

---

<sup>1</sup> 80% du transport de biens aux deux frontières s'effectue par voies routières.

<sup>2</sup> Susan L. Bradbury, "Planning Transportation Corridors in Post-NAFTA North America," *Journal of the American Planning Association*, vol. 68, no. 2, 2002, p.2

<sup>3</sup> Schneider, Julie, "Nafta & Transportation: Impacts on the US-Mexico Border", *Borderlines*, Interhemispheric Resource Center, Volume 8, Number 5, June 2000, p.2

Face à cette problématique grandissante, plusieurs acteurs prônent le développement de « corridors commerciaux », lesquels fonderaient les bases d'un système de transport intégré en Amérique du Nord. Selon le *Trade Corridors Partnership*, les corridors commerciaux sont centraux puisque « le mouvement des biens commerciaux est la pierre angulaire du développement économique et son organisation géographique constitue les infrastructures de la prospérité.<sup>4</sup> Transport Canada<sup>5</sup> définit les corridors commerciaux comme correspondant:

- À la facilité de circulation des biens et des personnes à l'échelle nationale et nord-américaine;
- Aux infrastructures de transport et systèmes (autoroutes, chemins de fer, ports, aéroports, gazoducs, etc.) qui permettent cette circulation et;
- Aux politiques, législations et réglementations qui gouvernent ces éléments.

### *Principaux enjeux*

La multiplicité des règlements et normes s'appliquant au secteur du transport à l'échelle de l'Amérique du Nord constitue une source de complications. « À l'origine, l'ALÉNA devait permettre l'harmonisation des normes s'appliquant aux camions, autobus et trains, avant l'an 2000, mais cet aspect de l'accord n'a pas été mis en œuvre. »<sup>6</sup>

Dans le cadre de l'ALÉNA, un sous-comité de travail sur les mesures de transport a été créé (LTSS<sup>7</sup>). Celui-ci a eu pour mandat de voir à rendre plus compatibles les législations des trois pays en matière de transport; d'harmoniser les mesures de sécurité relatives au poids des véhicules, à leurs dimensions, aux permis de conduire, aux niveaux des émissions polluantes, etc. Malgré des avancées notables, le comité n'a pas rempli son mandat, notamment en ce qui a trait à la possibilité pour les camions mexicains de pleinement accéder aux autoroutes américaines.<sup>8</sup>

L'ALÉNA devait en effet permettre l'harmonisation des règles de transport et établir une entente de réciprocité permettant aux transporteurs mexicains d'opérer aux États-Unis et au Canada et inversement. Toutefois, en réaction aux pressions du syndicat des Teamsters, le gouvernement américain a invoqué le fait que les camions mexicains ne respectaient pas les normes de transport américaines pour refuser d'appliquer l'ALÉNA. Parallèlement, les transporteurs mexicains se sont constitués en groupe de pression en formant l'association des transporteurs du Mexique; celle-ci a la volonté de limiter la libéralisation du secteur du fait qu'elle considère que le secteur du transport mexicain n'est pas prêt à entrer en compétition avec des compagnies américaines et canadiennes.

---

<sup>4</sup> On line: [www.tradecorridors.com/overview/projects/corridor\\_map.php](http://www.tradecorridors.com/overview/projects/corridor_map.php)

<sup>5</sup> Van Pelt, Michael, "Moving Trade: An Introduction to Trade Corridors", Trade Corridor Partnership, June 1999 (discussion paper). On line: [www.tradecorridors.com/overview/publications/papers.php](http://www.tradecorridors.com/overview/publications/papers.php)

<sup>6</sup> Bradbury, Susan L., p. 11

<sup>7</sup> Land Transport Standards Subcommittee

<sup>8</sup> Bradbury, Susan, L., p.13

Un autre des obstacles à la planification de réseaux de transport nord-américains semble résider dans le manque général d'information<sup>9</sup>. Des informations quant à la fréquence d'utilisation des corridors de transport, à l'origine, à la destination, à la quantité, au poids et à la valeur des biens transportés seraient nécessaires pour pouvoir procéder à une planification sérieuse des corridors commerciaux.<sup>10</sup>

Le plus grand défi semble toutefois résider dans la coordination financière des projets de transport. Il existe d'importants écarts quant aux capacités économiques des trois pays. Le Mexique ne semble pas disposer pas d'un budget suffisant pour lui permettre de participer efficacement à un système d'interconnexions routières régional.<sup>11</sup> Pourtant, les projets qui ne sont financés que d'un côté de la frontière sont voués à l'échec ou à une demi succès. Pour Susan Bradbury, les projets frontaliers devraient être considérés comme un seul et même projet, même s'ils concernent plus d'un pays.<sup>12</sup>

### *Acteurs en présence*

La répartition des pouvoirs entre les trois pays est distincte. Le pouvoir est très centralisé au Mexique. Ainsi, la planification en matière de transport incombe au gouvernement fédéral. Néanmoins, les décisions des autorités municipales et des États exercent un impact décisif sur la planification des corridors commerciaux. Alors qu'au Canada et aux États-Unis, les États et provinces possèdent un pouvoir de juridiction et un rôle central dans la planification et le développement du système de transport.

En réponses aux préoccupations de sécurité, le gouvernement américain a signé des accords bilatéraux avec le Canada et le Mexique, accords dits de "frontières intelligentes". C'est ainsi que de le Mexique et les États-Unis ont signé en mars 2002 un *Accord de partenariat sur la frontière* et que le Canada et les États-Unis ont émis une *Déclaration commune sur la frontière intelligente*. Les 22 points de la première et les 30 de la seconde recèlent de nombreuses similitudes qui permettent d'entrevoir la possibilité d'une action trilatérale. Relativement aux corridors commerciaux, le gouvernement américain a une longueur d'avance sur ses partenaires. Le Congrès a en effet adopté, entre 1991 et 1998, trois lois<sup>13</sup> identifiant 43 corridors commerciaux à « haute priorité » et octroyé des fonds pour l'étude et l'amélioration de la congestion aux frontières.

Les événements du 11 septembre 2001 ont alimenté de grands doutes quant au futur du commerce transfrontalier. Les préoccupations américaines en matière de sécurité ont en effet entraîné des délais aux frontières, « lesquels ont occasionné des problèmes dans la

---

<sup>9</sup> Randall, 1999; U.S./Mexico Aspen Global Forum, 1997, dans Bradbury, Susan L., p.16

<sup>10</sup> Idem.

<sup>11</sup> Les États-Unis, dans le cadre du *Intermodal Surface Transportation Efficiency Act* de 1991, reconnaissent la nécessité de créer un système de transport efficace du nord au sud. D'autres programmes ont favorisé des améliorations dans le système de transport américain, notamment le *National Corridor Planning and Development Program* et le *Border Infrastructure Program*.

<sup>12</sup> Bradbury, Susan, L., p.25

<sup>13</sup> Le *US Intermodal Surface Transportation Efficiency Act (ISTEA)* en 1991, le *National Highway System Designation Act (NHS)* en 1995 et le *Transportation Equity Act for the 21st Century (TEA-21)* en 1998.

gestion des systèmes de production « just-in-time » des entreprises. Ces retards pourraient amener des entreprises à reconsidérer leurs sources d'approvisionnement; cela constitue une préoccupation pour le Canada et le Mexique, car des compagnies américaines pourraient décider de s'approvisionner sur le marché américain plutôt que mexicain et canadien pour contourner les retards survenant aux frontières »<sup>14</sup>.

Depuis une dizaine d'années, plusieurs regroupements de gens des milieux politique, économique et communautaire ont vu le jour afin de promouvoir le développement de corridors de transport. Parmi les plus importantes, mentionnons:

<i>North America Super Corridor Coalition (NASCO :</i>	<a href="http://www.nasco-itc.com">www.nasco-itc.com</a>
<i>Interstate-69 Steering Committee :</i>	<a href="http://www.nationali69.org/index.jsp">www.nationali69.org/index.jsp</a>
<i>I-95 Corridor Coalition:</i>	<a href="http://www.i95coalition.org/about.html">www.i95coalition.org/about.html</a>
<i>Canamex Corridor :</i>	<a href="http://www.canamex.org/index.htm">www.canamex.org/index.htm</a>
<i>Central North American Trade (CNATCA) :</i>	<a href="http://tradecorridor.net">http://tradecorridor.net</a>
<i>Trade Corridors Partnership :</i>	<a href="http://www.tradecorridors.com">www.tradecorridors.com</a>
<i>Pacific Corridor Enterprise Council :</i>	<a href="http://www.pacebordertrade.org/index.php">www.pacebordertrade.org/index.php</a>
<i>North American Int'l Trade Corridor Partnership:</i>	<a href="http://www.naitcp.org/highing.htm">www.naitcp.org/highing.htm</a>

Bien que les projets promus par ces organisations se veulent une réponse aux impacts de l'ALÉNA, soulignons que plusieurs des projets de corridors commerciaux ne sont que bilatéraux et n'inclut pas le Mexique.

Pour leur part, les syndicats canadiens demandent à ce que les négociations ne soient pas uniquement centrées sur les normes techniques et la sécurité des véhicules de charge, mais qu'elles incluent également les questions liées à l'amélioration des conditions de travail des chauffeurs.<sup>15</sup>

Les environnementalistes sont également actifs en regard des corridors commerciaux. Ils soulignent que les embouteillages et les retards aux frontières occasionnés par les vérifications douanières ont des impacts environnementaux néfastes et demandent à ce que les normes environnementales soient resserrées. Des études démontrent en effet que les émissions polluantes ont augmenté aux passages les plus fréquentées (Vancouver-Seattle, Winnipeg-Fargo, Toronto-Detroit, San Antonio-Monterrey y Tucson-Hermosillo).<sup>16</sup> Soulignons à ce sujet que le gouvernement canadien a été le

---

<sup>14</sup> Mary Brooks, "Mapping the New North American Reality: The Road Sector," Study Group on Mapping the New North American Reality, IRPP.

<sup>15</sup> Confédération des syndicats nationaux, "Les conditions du travail dans l'industrie du transport routier en Amérique du Nord. Appel aux signataires de l'ALENA", 5 octobre 1999. Disponible en ligne [URL]: <http://www.csn.qc.ca/Pageshtml17/AlenaRoutiers.html>

<sup>16</sup> Comisión para la Cooperación Ambiental de América del Norte. Febrero 2001. *Efectos Ambientales y Estrategias de Mitigación en los Corredores de Comercio y Transporte de América del Norte*. [[http://www.cec.org/files/PDF/POLLUTANTS/corridors-s\\_ES.pdf](http://www.cec.org/files/PDF/POLLUTANTS/corridors-s_ES.pdf)].

premier à proposer le développement de corridors commerciaux « verts » intégrant des considérations de nature environnementale.<sup>17</sup>

Une coalition, appelée CANS (Coalition Against NAFTA Superhighways), s'affiche pour sa part contre les projets de corridors commerciaux. Elle soutient que les corridors commerciaux minent le développement des économies locales, contribue au réchauffement de la planète et détruisent les terres agricoles et forestières.

#### *Pistes d'action*

Suite à ce qui a été souligné précédemment, les participants devraient débattre des mesures destinées à augmenter l'efficacité, la viabilité et l'interconnexion des réseaux de transport nord-américains. Il vous est possible de travailler à partir de ces suggestions ici présentées ou de mettre de l'avant d'autres propositions.

- La création d'un groupe de travail gouvernemental trilatéral, regroupant des représentants des gouvernements d'État fédéraux et fédérés des trois pays. Ce comité aurait pour mandat d'adopter un plan d'action conjoint pour la construction d'infrastructures de transport intégrées. Ce plan définirait un ordre de priorité entre les différents projets promus par les coalitions prônant les corridors commerciaux, suivant les intérêts des trois pays;
- La création par les gouvernements nord-américains d'un Fonds d'investissement pour les transports (FIT), finançant à moyen et long terme des infrastructures de transport dans les trois pays. Un tel fonds pourrait s'inspirer de l'exemple du European Investment Fund (EIF), qui repose sur un partenariat entre des banques, des agences gouvernementales et le secteur privé, lequel doit assumer 50% des investissements.
- L'harmonisation des législations nord-américaines en matière de transport terrestre, afin de diminuer la multiplicité des normes de sécurité en vigueur dans chaque pays (normes pour la taille, poids, équipement, etc.) et la possibilité pour tous les transporteurs de circuler au sein des trois pays;
- Afin de diversifier les moyens de transport offerts aux voyageurs nord-américains, la pertinence de développer un ou des réseaux de trains à grande vitesse (TGV) reliant les grands centres urbains du Canada, des États-Unis et du Mexique pourrait être analysée. Cela permettrait d'accélérer le déplacement des personnes, de réduire le trafic routier, de diminuer la pollution automobile et de favoriser la promotion du tourisme binational. Parmi les projets de TGV, soulignons le développement d'un réseau reliant Montréal à New York ; le

---

<sup>17</sup> Schneider, Julie, "Nafta & Transportation: Impacts on the US-Mexico Border", Borderlines, Interhemispheric Resource Center, Volume 8, Number 5, June 2000, p.16

développement d'un TGV Dallas-Houston-Monterrey-Mexico ; ou encore le développement d'un TGV reliant Vancouver et Los Angeles.

- Une autre voie d'action pour faciliter la mobilité des personnes aux frontières pourrait consister en la création d'un *Système intégré de passage accéléré aux frontières (SIPAF)*. Il pourrait consister en l'établissement d'un système nord-américain de facilitation des mouvements de personnes dans les aéroports des trois partenaires. Inspiré de systèmes similaires existants actuellement pour les biens et les marchandises, ce système permettrait la mise en place de systèmes de traitement des passagers plus rapides, dédiées uniquement aux Nord-américains.



## BIBLIOGRAPHIE

Blank, Stephen, "North American Economic Integration : Looking Ahead", January 5, 2005. The original paper was prepared for conference on "Reflections on North America's Integration: NAFTA, FTAA & Doha," Facultad Latinoamericana de Ciencias Sociales, México City, September 27– 28, 2004.

Bradbury, Susan L.. 2002. «Planning Transportation Corridors in Post-NAFTA North America», *Journal of the American Planning Association*, 68, 2. pp. 137-150.

Brooks. R. Mary, 2004. *Mapping the New North American Reality: the Road Sector*. Institute for Research on Public Policy.  
[[http://www.irpp.org/miscpubs/archive/NA\\_integ/wp2004-09k.pdf](http://www.irpp.org/miscpubs/archive/NA_integ/wp2004-09k.pdf)]

Comisión para la Cooperación Ambiental de América del Norte. Febrero 2001. *Efectos Ambientales y Estrategias de Mitigación en los Corredores de Comercio y Transporte de América del Norte*. [[http://www.cec.org/files/PDF/POLLUTANTS/corridors-s\\_ES.pdf](http://www.cec.org/files/PDF/POLLUTANTS/corridors-s_ES.pdf)].

Centrale syndicale nationale. *Les Conditions du Travail dans l'industrie du transport routier en Amérique du Nord*. Appel aux pays signataires de l'ALENA.  
[<http://www.csn.qc.ca/Pageshtml17/AlenaRoutiers.html>].

Departamento de Estado de los Estados Unidos. Marzo 2002. *Frontera Inteligente: Acuerdo de 22 puntos del Plan de Acción de la Asociación Fronteriza entre los Estados Unidos y México*. [<http://spanish.state.gov/spanish/ho/pas/mx/gen/38661.htm>]

Eaton, David W. 2004. *Roads, Trains and Ports: Integrating North American Transport*. Institute for Research on Public Policy.  
[[www.irpp.org/miscpubs/archive/NA\\_integ/wp2004-09j.pdf](http://www.irpp.org/miscpubs/archive/NA_integ/wp2004-09j.pdf)].

Initial Five-Year Plan for Increased Cooperation in the Field of North American Transportation Technologies.  
[<http://scitech.dot.gov/partners/nafta/index.html#overview>]

Meeting of the NAFTA Land Transportation Standards Subcommittee, Baltimore, October 25-28, 1999. [<http://www.tc.gc.ca/pol/nafta-alena/en/plenaries/plenary-1999.htm>]

Pampin, Alice et Kirschenblatt, Chad, "NAFTA Trade Corridors".  
(<http://cetai.hec.ca/ny/cases/naftacor.htm>)

Pastor, Robert, A. 2004. *La Segunda década de América del Norte*. Foreign Affairs en Español. Vol. 83, no. 1. enero-marzo  
[[http://www.american.edu/ia/cnas/pdfs/ForeignAffairsNA\\_Jan2004\\_Espanol.pdf](http://www.american.edu/ia/cnas/pdfs/ForeignAffairsNA_Jan2004_Espanol.pdf)]

Schneider, Julie, "Nafta & Transportation: Impacts on the US-Mexico Border", *Borderlines*, Interhemispheric Resource Center, Volume 8, Number 5, June 2000.  
[[www.irc-online.org/bordline/](http://www.irc-online.org/bordline/)]

Sierra Club and Shelia Holdbrook-White. 11 de octubre 2000. *NAFTA Transportation Corridors: Approaches to Assessing Environmental Impacts and Alternatives*.  
[[http://www.cec.org/programs\\_projects/trade\\_envIRON\\_econ/pdfs/sierra.pdf](http://www.cec.org/programs_projects/trade_envIRON_econ/pdfs/sierra.pdf)]

Shuman, John R. 2002. "Preserving and Expanding our important NAFTA training Relationship in Light of September 11", *Business Credit*, vol. 104, no. 8, p. 53-60

U.S. Department of Transportation, Federal Highway Administration. US.-Canada *International Mobility and Trade Corridor*.  
[<http://ops.fhwa.dot.gov/freight/documents/pacificnw.pdf>]

----- National Corridor Planning and Development Program (NCPD) and the Coordinated Border Infrastructure Program (CBI).  
[[www.fhwa.dot.gov/hep10/corbor/](http://www.fhwa.dot.gov/hep10/corbor/)]

Van Pelt, Michael, "Moving Trade: An Introduction to Trade Corridors", Trade Corridor Partnership, June 1999 (discussion paper), 12 pages.  
« [www.tradecorridors.com/overview/publications/papers.php](http://www.tradecorridors.com/overview/publications/papers.php) »

## **b) NAFTA'S Chapter 11**

### *Introduction*

The first government efforts to protect foreign investments can be traced as far back as the Friendship, Navigation and Commerce Treaties of the late 18<sup>th</sup> century. Chapter 11 of the North American Free Trade Agreement (NAFTA)<sup>18</sup> is also part of a long tradition of seeking to protect foreign investments but it also reflects the recent desire to liberalize international investments.<sup>19</sup>

Members of NAFTA decided to include a chapter on investment in order to create a North American environment that favours direct foreign investment (DFI). Moreover, their two main objectives were to protect foreign investments from arbitrary treatment by governments and to eliminate investment barriers such as performance requirements or restrictions on establishment rights.<sup>20</sup>

Eleven years after NAFTA was introduced, the goal of increasing direct foreign investment has certainly been achieved since DFI has practically tripled. Still, Chapter 11 has raised many concerns and criticisms and continues to do so. The challenge for governments therefore is to protect the public interest while continuing to attract foreign investments.

Chapter 11 is divided into two sections. Section A that focuses on investment,<sup>21</sup> includes the principles that govern relations between an investor and the Party where the investment is carried out. Some of these principles include following:

- 1- Article 1102 grants the right to “national treatment,” that is, treatment that is similar to that granted to local investors (no discrimination against foreign investors).
- 2- Article 1103 guarantees investors of a member country most-favoured-nation treatment, that is, treatment that is no less than what is offered to investors of any other Party or nonParty regarding establishment, acquisition, expansion, management, conduct, operation, and sale of an investment.
- 3- Article 1105 ensures a “minimum standard of treatment” towards investors of a member country (e.g., fair and equitable treatment with full protection and security).
- 4- Article 1106 does not allow “performance requirements,” i.e., the imposition of practices/restrictions/standards/regulations as pre-conditions for establishment (e.g., obligation to purchase local manufacturing materials).

---

<sup>18</sup> As is in Chapter 16 of the Canada-United States Free Trade Agreement (CUSFTA)

<sup>19</sup> Cosbey, Aaron, “NAFTA's Chapter 11 and the Environment”, IISD, *CEC's Joint Public Advisory Committee briefing paper*, Ottawa, June 17-18, 2002, p.1

<sup>20</sup> *Idem*.

<sup>21</sup> This section mainly covers Chapter 16 of NAFTA.

5- Article 1110 entitles investors to compensation when a government expropriates directly (e.g., nationalization) or indirectly (e.g., prohibitive regulation) or takes a measure “tantamount” to an expropriation.

Section B of Chapter 11, “Settlement of Disputes between a Party and an Investor of Another Party,” establishes a mechanism for submitting a complaint for arbitration in order to receive compensation from another Party when the investor feels he has suffered a damage following the adoption of regulatory measures that modify existing business operating conditions. These regulatory or legislative changes must, however, be such that they can be considered as a direct or indirect expropriation or a “measure tantamount” to an expropriation.<sup>22</sup>

#### *Issues relating to Chapter 11*

In Sections A and B, the use of the expression “measure tantamount” has led to very unexpected interpretations. The concerns of environmentalists are particularly important on this issue:

Non-discriminatory measures aimed at protecting public welfare (e.g., public health, the environment, *Public Order*), are not considered expropriation, even if they cause economic damage to some firms. As this “carve-out” is not made explicit in the text of Article 1110, it is not clear whether it exists. If it does not, then any tough environmental regulation will involve paying damages to the affected businesses.<sup>23</sup>

Moreover, “there is notable lack of international consensus on what constitutes a legitimate measure to protect the environment, for example, and there is a similar lack of consensus on what constitutes a legitimate measure to protect cultures.”<sup>24</sup>

According to Mann and von Moltke from the International Institute for Sustainable Development:

“The provisions have gone from being tools of last-resort protection from unfair treatment to weapons of choice for preventing or attacking unfavourable regulations – they have gone from shield to sword.”<sup>25</sup>

---

<sup>22</sup> St-Cyr, Richard, “ALÉNA. Chapitre 11 sur les investissements », *Infocom*, Ministère du développement économique et régional, gouvernement du Québec, octobre 2003. On line [URL] : [www.mderr.gouv.qc.ca/mdercontent/000021780000/upload/publications/pdf/Exportation/comex/ALENA\\_chapitre11.pdf](http://www.mderr.gouv.qc.ca/mdercontent/000021780000/upload/publications/pdf/Exportation/comex/ALENA_chapitre11.pdf)

<sup>23</sup> Cosbey, Aaron, *op. cit.*, p.3

<sup>24</sup> Rod Dobell, “A Social Charter for a North American Community”, *ISUMA*, Volume 1 N° 1, spring 2000. On line [URL]: [http://www.isuma.net/v01n01/dobell1/dobell1\\_e.shtml](http://www.isuma.net/v01n01/dobell1/dobell1_e.shtml)

<sup>25</sup> Cosbey, Aaron, *op. cit.*, p.5

The Parties had not expected the way that Chapter 11 would be interpreted, since its use has centered more on public standard than on cases of expropriation. In reaction to the unexpected interpretations made by the courts, the NAFTA Free Trade Commission, made up of the trade ministers of the three countries, drew up a “Note of Interpretation of Certain Provisions of Chapter 11”<sup>26</sup> in order to clarify and restrict ambiguous or vague interpretations (see the Note in Appendix I). The note has made possible the immediate publication of arbitration decisions and the reception of third party submissions by arbitration groups.

Initially, the arbitration procedure established under Chapter 11 was supposed to be distinguished by “its greater neutrality, expertise, lower costs, greater confidentiality and more expeditious settlement of disputes.”<sup>27</sup> However, according to Transnational Dispute Management, experience shows rather that the treatment of complaints is particularly slow and costly. While The World Trade Organization (WTO) tribunals on average reach a decision within 12 to 18 months, the NAFTA investor-state dispute settlement mechanism takes about three years, i.e., three times more, to reach a final decision.

As for the arbitration tribunal, its *ad hoc* nature has been the subject of much criticism. For a case to be heard, each Party must name an arbitrator and agree with the other Party in naming a third member. Mann and von Moltke of the IISD argue that “the court is often called upon to adjudicate on issues that fall outside the scope of commercial law and require knowledge of scientific and economic aspects of the environmental laws of the accused State. [They stress that] experts chosen for their experience in commercial law are lacking in these areas.”<sup>28</sup>

Many argue that the functioning of the investor-State arbitration mechanism is also not transparent in that arguments presented in cases relating to Chapter 11 can remain confidential even though the compensations paid out come from public funds and deal with issues of public interest.

With regards to the lack of transparency in the arbitration tribunal’s mechanisms and decisions, Mann and von Moltke believe that:

an institutionalized conflict resolution procedure that is open to the public and media will guarantee the availability of all relevant information pertinent to understanding the litigation (...). That would ensure a better equilibrium between the rights of the public and those of investors.<sup>29</sup>

---

<sup>26</sup> Signed 31 July 2001.

<sup>27</sup> Thomas W. Wälde, “Why Can’t NAFTA Chapter 11 be More Like the WTO?”, *Transnational Dispute Management*, (May 2004) Vol 1, no.2.

On line: [www.transnational-dispute-management.com/samples/freearticles/tv1-2-article39a.htm](http://www.transnational-dispute-management.com/samples/freearticles/tv1-2-article39a.htm)

<sup>28</sup> Denise Proulx, « Des règles de transparence doivent encadrer le chapitre 11 de l’ALENA », *Le Devoir*, 17 juin 2002. On line : <http://www.ledevoir.com/2002/06/17/3267.html>

<sup>29</sup> Ibidem.

The huge amounts claimed by investors have raised eyebrows. In cases where the plaintiffs prevail, the majority of claims have been excessive compared to the awards given by the courts. For instance, claims in the 42 litigations in 10 years amounted to \$28 billion. Five of these cases were resolved to the advantage of the plaintiffs who received \$35 million dollars (Appendix II presents a list of cases relating to Chapter 11). This leads certain critics to claim that “it is problematic that there is no “filter” to weed out frivolous or strategic claims.”<sup>30</sup> Others believe that the amounts claimed are meant to “intimidate governments and clog the legal system.”<sup>31</sup>

### *The various players*

a) *Federal Governments*: The desire to include a chapter on investment, an investor-state dispute settlement mechanism and a compensation mechanism in matters of expropriation in the Canada-United States Free Trade Agreement (CUSFTA) and then in NAFTA first originated from the United States government. For its part, Canada wanted to have some oversight over foreign investments, especially in the cultural sector, but like the American government, also wanted to eliminate Mexico’s Calvo doctrine, under which foreign investors could only be protected by national laws and institutions. Reluctantly, the Mexican government finally yielded to the inclusion of Chapter 11, since it would enable Mexico to be considered a secure place to invest.<sup>32</sup> In 2000, the Canadian government indicated its desire to no longer enter into any agreement involving a dispute resolution mechanism similar to that in Chapter 11.<sup>33</sup>

*Federated State Governments*: The “normal” arbitration procedure of Chapter 11 concerns federal governments and is therefore incumbent upon federal governments to defend the interests of federated governments. On two occasions, however, federated State governments were brought before the Chapter 11 tribunal. As a result, federated state governments are called upon to take a stand regarding Chapter 11, particularly when investments fall under their jurisdiction.

b) *Lobby Groups*: In general, environmentalists and civil society movements do not support Chapter 11. Some want it abolished and others call for a renegotiation or review. The following unions are among the organizations that have denounced Chapter 11: Common Frontiers-Canada, Quebec Network on Continental Integration (QNCI), Mexican Action Network on Free Trade (MANFT), Public Citizen, and the Canadian Council.

---

<sup>30</sup> Cosbey, Aaron, *op. cit.*, p.7

<sup>31</sup> Barlow, Maude et Clarke T., *Global Showdown : How the new Activists are Fighting Global Corporate Rules*, Toronto, Stoddard Publishing Co. Ltd., 2001.

<sup>32</sup>The governmental positions are taken from : Gagné Gilbert, « Le règlement des différends », *op. cit.* p.300

<sup>33</sup> Roch, François, « Le chapitre 11 : bilan et perspectives », dans *L’ALÉNA – Le libre-échange en défaut*, Éditions FIDES, p.325.

c) *Private companies*: It is the large companies and their business groups – rather than small and mid-size businesses – that have spoken up regarding issues related to Chapter 11. These groups generally favour the protective measures offered for DFI. The *US Chamber of commerce*, for example, states that “The Chapter 11 provisions seek to obtain due process for American firms abroad comparable to that which they receive in the U.S.”<sup>34</sup> Some companies believe the application of Chapter 11 is a disadvantage for them because they see foreign investors benefiting from treatment and legal advantages that local businesses are not entitled to.

#### *Possible courses of action*

Various courses of action and suggestions have been advanced. You may use these suggestions or propose others, provided that they are related to the debates and issues raised.

a) *The procedures and verdicts of the dispute resolution process should be made public.*

In spite of the ministerial interpretation note, certain strategic information can remain confidential. It should be demanded that all arguments, documents presented and the legal processes should be accessible to the public and the media.

b) *The creation of a Permanent North-American Trade and Investment Court*

To ensure continuity in the granting of arbitration awards and to facilitate the search for judges, the establishment of a permanent tribunal could be proposed.

c) *An appeal process for first instance awards should be implemented, similar to the WTO's Dispute Settlement Understanding.*

The legal system that governs Chapter 11 conflicts does not allow the appeal of decisions. As in the WTO, an appeal procedure could be instituted.

d) *Every direct foreign investment should contain a detailed and publicized environmental impact study and should guarantee sound environmental management.*

To ensure that environmental concerns are taken into account in reviewing complaints brought under Chapter 11, environmental impact studies could be required prior to DFIs.

e) *Limit the scope of the term “measures tantamount” to an expropriation.*

It could be proposed that governments agree that the term “measures tantamount” not refer to any government standards when it is proven that the standard aims to ensure the protection of the public's health or the environment, which are both protected by the preamble of the agreement and Article 1110.

---

<sup>34</sup> On line: <http://www.uschamber.com/issues/letters/2002/020514hr3009.htm>

## APPENDIX I

### **Notes of Interpretation of Certain Chapter 11 Provisions (NAFTA Free Trade Commission, July 31, 2001)**

Having reviewed the operation of proceedings conducted under Chapter Eleven of the North American Free Trade Agreement, the Free Trade Commission hereby adopts the following interpretations of Chapter Eleven in order to clarify and reaffirm the meaning of certain of its provisions:

#### **A. Access to documents**

1. Nothing in the NAFTA imposes a general duty of confidentiality on the disputing parties to a Chapter Eleven arbitration, and, subject to the application of Article 1137(4), nothing in the NAFTA precludes the Parties from providing public access to documents submitted to, or issued by, a Chapter Eleven tribunal.
2. In the application of the foregoing:
  - a. In accordance with Article 1120(2), the NAFTA Parties agree that nothing in the relevant arbitral rules imposes a general duty of confidentiality or precludes the Parties from providing public access to documents submitted to, or issued by, Chapter Eleven tribunals, apart from the limited specific exceptions set forth expressly in those rules.
  - b. Each Party agrees to make available to the public in a timely manner all documents submitted to, or issued by, a Chapter Eleven tribunal, subject to redaction of:
    - i. confidential business information;
    - ii. information which is privileged or otherwise protected from disclosure under the Party's domestic law; and
    - iii. information which the Party must withhold pursuant to the relevant arbitral rules, as applied.
  - c. The Parties reaffirm that disputing parties may disclose to other persons in connection with the arbitral proceedings such unredacted documents as they consider necessary for the preparation of their cases, but they shall ensure that those persons protect the confidential information in such documents.
  - d. The Parties further reaffirm that the Governments of Canada, the United Mexican States and the United States of America may share with officials of their respective federal, state or provincial governments all relevant documents in the course of dispute settlement under Chapter Eleven of NAFTA, including confidential information.
3. The Parties confirm that nothing in this interpretation shall be construed to require any Party to furnish or allow access to information



that it may withhold in accordance with Articles 2102 or 2105.

**B. Minimum Standard of Treatment in Accordance with International Law**

1. Article 1105(1) prescribes the customary international law minimum standard of treatment of aliens as the minimum standard of treatment to be afforded to investments of investors of another Party.
2. The concepts of "fair and equitable treatment" and "full protection and security" do not require treatment in addition to or beyond that which is required by the customary international law minimum standard of treatment of aliens.
3. A determination that there has been a breach of another provision of the NAFTA, or of a separate international agreement, does not establish that there has been a breach of Article 1105(1).

**Closing Provision**

The adoption by the Free Trade Commission of this or any future interpretation shall not be construed as indicating an absence of agreement among the NAFTA Parties about other matters of interpretation of the Agreement.

Done in triplicate at Washington, D.C., on the 31st day of July, 2001, in the English, French and Spanish languages, each text being equally authentic.

**For the Government of the United States of America**

Robert B. Zoellick  
United States Trade Representative

**For the Government of the United Mexican States**

Luis Ernesto Derbez Bautista  
Secretary of Economy

**For the Government of Canada**

Pierre S. Pettigrew  
  
Minister for International Trade

## APPENDIX 2

### TABLE OF NAFTA CHAPTER 11 INVESTOR-STATE CASES & CLAIMS February 2005

<b>Key</b>
**Indicates date Notice of Intent to File a Claim was filed, the first step in the NAFTA investor-state process when an investor notifies a government that it intends to bring a NAFTA Chapter 11 suit against that government.
*Indicates date Notice of Arbitration filed, the second step in the NAFTA investor-state process when investor notifies an arbitration body that it is ready to commence arbitration under NAFTA Chapter 11.
The two venues for the adjudication of NAFTA Chapter 11 disputes are the World Bank's International Center for the Settlement of Investment Disputes (ICSID) and the United Nation's Commission on International Trade Law (UNCITRAL).

Corporation or Investor	Venue	Damages Sought (U.S.\$)	Status of Case	Issue
----------------------------	-------	-------------------------------	-------------------	-------

#### Cases & Claims Against the United States

<b>Loewen</b> Oct. 30, 1998*	ICSID	\$725 million	Dismissed	Canadian funeral conglomerate challenged large Mississippi state court damage award granted by a jury in a contract dispute suit by a local company claiming Loewen engaged in anti-competitive, predatory business practices. June 2003 – Claim dismissed on procedural basis. Tribunal found that Loewen's reorganization as a U.S. corporation under U.S. bankruptcy law destroyed the firm's ability to bring the NAFTA claim as a <i>foreign</i> investor.
<b>Mondev</b> Sep. 1, 1999*	ICSID	\$50 million	Dismissed	Canadian real estate developer challenged City of Boston's actions in development contract dispute and adverse state supreme court ruling that denied the firm compensation on the grounds that city actions were shielded by principle of sovereign immunity. October 2002 – Claim dismissed on procedural grounds. Tribunal found that the majority of Mondev's claims, including of expropriation, were time-barred meaning that the dispute on which the claim was based predated NAFTA and that court rulings were well founded in state law.
<b>Methanex</b> Dec. 3, 1999*	UNCITRAL	\$970 million	Pending	Canadian corporation which produces methanol, a component chemical of gasoline additive MTBE, challenges California phase-out of MTBE, which is contaminating drinking water throughout the state. August 2002 – Jurisdictional ruling indicates that because Methanex only produces a component ingredient of MTBE, methanol, not the actual product, company is to "distant" from the MTBE ban to qualify as a firm harmed by it, suggesting that certain MTBE producers may be qualified to bring similar NAFTA suits. Methanex allowed to resubmit claim to demonstrate how the MTBE ban was <i>specifically</i> directed toward methanol producers instead of merely affecting them. U.S. government has spent \$3 million on legal defense to date on case, which NAFTA supporters are eager to have dismissed permanently on technical grounds for fear of political ramifications if Methanex wins.
<b>ADF Group</b> Jul. 19, 2000*	ICSID	\$90 million	Dismissed	Canadian steel contractor challenged U.S. Buy America provision in Virginia highway construction contract. January 2003 – Claim dismissed on procedural grounds. Tribunal found that the basis of the claim constituted "government procurement" and therefore fell under the procurement provisions of NAFTA, Chapter 10, not Chapter 11.
<b>James Baird</b> Mar. 15, 2002**	Arbitration has not yet commenced	\$13 billion		Canadian investor challenged U.S. policy of disposing nuclear waste at Yucca Mountain, Nevada site. Investor claims to have patents for alternative waste disposal method and location.
<b>Doman</b> May 1, 2002**	Arbitration has not yet commenced	\$513 million		Canadian company seeks damages over May 2002 application by the U.S. of anti-dumping and countervailing duties on Canadian softwood lumber.
<b>Canfor</b> Jul. 9, 2002*	UNCITRAL	\$250 million	Pending	Canadian company seeks damages over May 2002 application by the U.S. of anti-dumping and countervailing duties on Canadian softwood lumber.

<b>Kenex</b> Aug. 2, 2002*	UNCITRAL	\$20 million	Pending	Canadian hemp production company challenged U.S. Drug Enforcement Agency regulations criminalizing importation of hemp foods. In 2004 the firm won a U.S. federal court case charging that the agency overstepped its statutory authority when issuing the rules. Status of NAFTA case unclear.
<b>Ontario Limited</b> Sep. 9, 2002**	Arbitration has not yet commenced	\$38 million		Canadian company seeks return of property after its bingo halls and financial records were seized during an investigation for RICO violations in Florida.
<b>Tembec</b> Dec. 3, 2003*	UNCITRAL	\$200 million	Pending	Canadian company seeks damages over May 2002 application by the U.S. of anti-dumping and countervailing duties on Canadian softwood lumber.
<b>Glamis Gold</b> Dec. 9, 2003*	UNCITRAL	\$50 million	Pending	Canadian company seeks compensation for California regulation requiring backfilling and restoration of open pit mines that would damage Native American sacred sites.
<b>Albert J. Connolly</b> Feb. 19, 2004**	Arbitration has not yet commenced	Value of expropriated property		U.S. investor claims real estate was expropriated by Canadian government to be used as a park.
<b>Grand River</b> Mar. 10, 2004*	UNCITRAL	\$340 million	Pending	Small Canadian tobacco company seeks damages in claim challenging U.S. tobacco settlements due to the requirement that tobacco companies contribute to state escrow funds set up by state law.
<b>Terminal Forest Products</b> Mar. 30, 2004*	UNCITRAL	\$90 million	Pending	Canadian company seeks damages over May 2002 application by the U.S. of anti-dumping and countervailing duties on Canadian softwood lumber.
<b>Canadian Cattlemen for Fair Trade</b> Aug. 12, 2004**	Arbitration has not yet commenced	\$300 million		Group of Canadian cattlemen and feedlot owners seeks compensation for losses incurred when the U.S. halted imports of live Canadian cattle after the discovery of a case of BSE (mad cow disease) in Canada in May 2003.

### Cases & Claims Against Canada

<b>Signa</b> Mar. 4, 1996**	Arbitration never commenced	\$40 million		Mexican pharmaceutical manufacturer filed challenge of Canadian patent law which blocked the manufacture of a generic equivalent to CIPRO, the multi-spectrum antibiotic. Little is known with regard to the disposition of this case.
<b>Ethyl</b> Apr. 14, 1997*	UNCITRAL	\$250 million	Settled; Ethyl wins, \$13 million paid	U.S. chemical company challenged Canadian environmental regulation of gasoline additive MMT. July 1998 – Canada loses NAFTA jurisdictional ruling, reverses ban, pays \$13 million in damages and legal fees to Ethyl.
<b>S.D. Myers</b> Oct. 30, 1998*	UNCITRAL	\$20 million	S.D. Myers wins, \$4.8 million paid	U.S. waste treatment company challenged Canadian ban of PCB exports. Ban was compliant with multilateral environmental treaty on toxic waste trade November 2000 – NAFTA tribunal dismisses S.D. Myers claim of expropriation, but upholds claims of discrimination and equates this violation with a violation of the minimum standard of treatment required by international law. Panel also states that “market share” could constitute a NAFTA protected investment.
<b>Pope &amp; Talbot</b> Mar. 25, 1999*	UNCITRAL	\$381 million	P&T wins, \$450,000 paid	U.S. timber company challenged Canada’s implementation of 1996 U.S.-Canada Softwood Lumber Agreement. April 2001 – NAFTA tribunal dismissed claims of expropriation and discrimination, but held that the rude behavior of the Canadian government officials seeking to verify firm’s compliance with Softwood Lumber Agreement constituted a violation of the minimum standard of treatment required by NAFTA for foreign investors. Tribunal also stated that “market access” could be considered a NAFTA-protected investment.
<b>UPS</b> Apr. 19, 1999*	UNCITRAL	\$160 million	Pending	UPS claims that Canadian post office parcel delivery service, due to its status as a public service, enjoys NAFTA-illegal subsidies that undermine the market share of foreign private sector competitor UPS.

<b>Sun Belt</b> Oct. 12, 1999*	Arbitration has not yet commenced	\$10 billion	Unknown	U.S. water company challenged moratorium by Canadian province (British Columbia) on bulk water exports.
<b>Ketcham and Tysa Investments</b> Dec. 22, 2000**	Arbitration never commenced			U.S. softwood lumber firms challenged Canadian implementation of 1996 Softwood Lumber Agreement. Case later withdrawn, perhaps due to limited success of similar Pope & Talbot case.
<b>Trammel Crow</b> Sep. 7, 2001**	Arbitration never commenced	\$32 million	Settled	U.S. real estate company filed complaint regarding discrimination over Canada Post's competitive bidding process. Reportedly settled in 2002.
<b>Crompton</b> Nov. 6, 2001**	Arbitration has not yet commenced	\$100 million		U.S. chemical company, producer of pesticide lindane, a hazardous persistent organic pollutant, challenges voluntary agreement established in Canada to restrict production of the chemical.

### Cases & Claims Against Mexico

<b>Amtrade International</b> Apr. 21, 1995**	Arbitration never commenced	\$20 million		U.S. firm claimed it was discriminated against by a Mexican firm while seeking to bid for pieces of property, in violation of a pre-existing settlement agreement. Little is known with regard to the disposition of this case.
<b>Metalclad</b> Jan. 13, 1997*	ICSID	\$90 million	Metalclad wins, \$15.6 million paid	U.S. firm challenged Mexican municipality's refusal to grant construction permit for toxic waste dump and governor's declaration of ecological preserve surrounding the site. August 2000 – NAFTA tribunal ruled that the denial of the construction permit and the creation of an ecological reserve are tantamount to an "indirect" expropriation and that Mexico violated the minimum standard of treatment guaranteed foreign investors because the firm was not granted a "clear and predictable" regulatory framework. In October 2000, the Mexican government challenged the NAFTA ruling in Canadian court alleging arbitral error. A Canadian judge ruled that the tribunal erred in part by importing transparency requirements of NAFTA Ch 18 into Ch 11 and reduced award by \$1 million. In 2004, the Mexican federal government's effort to hold state financially responsible failed in Mexican Supreme Court.
<b>Azinian, et al.</b> Mar. 10, 1997*	ICSID	\$19 million	Dismissed	U.S. investors challenged revocation of solid waste collection contract by City of Naucalpan and Mexican federal court decision upholding the revocation. November 1999 – Claim dismissed. NAFTA tribunal held that the firm made fraudulent misrepresentations with regard to its experience and capacity to fulfill the contract and dismissed claims of expropriation and unfair treatment.
<b>Waste Management</b> Sep. 29, 1998* Resubmitted: Sep. 18, 2000*	ICSID	\$60 million	Dismissed	U.S. waste disposal giant challenged City of Acapulco revocation of waste disposal concession, also implicated Mexican courts and the actions of Mexican government banks. April 2004 – Claim dismissed. Tribunal found that the investor's business plan was based on unsustainable assumptions and that none of the government bodies named in the complaint failed to accord the minimum standard of treatment, nor did the city's actions amount to an expropriation.
<b>Karpa (Feldman)</b> Apr. 7, 1999*	ICSID	\$50 million	Karpa wins, \$1.5 million paid	U.S. cigarette exporter challenged denial of export tax rebate by Mexican government. December 2002 – The tribunal rejected an expropriation claim but upheld a claim of discrimination after the Mexican government failed to provide evidence that the firm was being treated similarly to Mexican firms in "like circumstances." Karpa attempted to bring this ruling into Canadian domestic court, but its case was dismissed by a Canadian judge.
<b>Scott Ashton Blair</b> May 21, 1999**	Arbitration never commenced	Value of property he owns		U.S. investor purchased a residence and restaurant in Mexico and claims he was harassed by Mexican government officials and improperly jailed because he was a U.S. citizen.
<b>Adams, et al.</b> Feb. 16, 2001*	UNCITRAL	\$75 million		U.S. landowners challenged Mexican court ruling that developer who sold them property did not own land and therefore could not convey it.

<b>Lomas Santa Fe</b> Aug. 28, 2001**	Arbitration has not yet commenced	\$210 million		An American real estate development company claimed Mexican government discriminated against him and expropriated land intended for commercial development. Implicated adverse Mexican court decision as well.
<b>Fireman's Fund</b> Oct. 30, 2001*	ICSID	\$50 million	Pending	U.S. insurance corporation alleges that Mexico's handling of debentures issued to capitalize a bank was discriminatory.
<b>Francis Kenneth Haas</b> Dec. 12, 2001**	Arbitration has not yet commenced	\$17 million		American citizen claimed he was cheated out of his rights in an investment firm held with former Mexican business partners. Implicated state government officials as well.
<b>GAMI Investments</b> Apr. 9, 2002*	UNCITRAL	\$55 million	Dismissed	U.S. minority-share investors in Mexican sugar mills challenged failure of government to ensure profitability of mills and September 2001 expropriation of five debt-ridden sugar mills. In Nov. 2004, NAFTA panel dismissed all claims after Mexican Supreme Court reversed the challenged expropriations.
<b>Thunderbird Gaming</b> Aug. 1, 2002*	UNCITRAL	\$100 million	Pending	Canadian company operating three video gambling facilities in Mexico challenges government's closure of facilities. Most forms of gambling are illegal in Mexico.
<b>Robert J. Frank</b> Aug. 5, 2002*	UNCITRAL	\$1.5 million		U.S. citizen challenges government confiscation of vacation property alleged to be his in Baja California, Mexico.
<b>Calmark</b> date not avail. **	Arbitration has not yet commenced	\$400,000		U.S. company challenges Mexican domestic court decisions regarding a development project planned for Cabo San Lucas, alleging company was cheated out of property and compensation by various individuals.
<b>Halchette</b> 1995	No public documents available	Unknown		Halchette, a U.S. firm which operates airport concessions in Mexico, filed a notice of claim. Disposition of the case is unknown.
<b>ADM and A.E. Staley</b> Oct. 13, 2003**	Unknown	\$100 million		U.S. company is leading producer of high fructose syrup HFCS, a soft drink sweetener. Agribusiness giant seeking compensation against Mexican government for imposing an allegedly discriminatory tax against its subsidiary company and HFCS exports to Mexico.
<b>Corn Products</b> Oct. 21, 2003**	ICSID	\$325 million		U.S. company is leading producer of high fructose syrup HFCS, a soft drink sweetener. Agribusiness giant seeking compensation against Mexican government for imposing an allegedly discriminatory tax against its subsidiary company and HFCS exports to Mexico.
<b>Bayview Irrigation</b> Aug. 27, 2004**	Arbitration has not yet commenced	\$550 million		17 water rights holders in the United States challenge Mexico's alleged failure to implement 1944 water-sharing treaty governing water in the Rio Grande.

### Summary

<b>Total Claims Filed Against All 3 NAFTA Parties:</b>	<b>42 Cases</b>	<b>\$28 billion</b>		<b>NOTE:</b> This amount excludes cases where there has been a final award, and includes the Baird and Sun Belt claims, which are disproportionately high. Without Baird and Sun Belt, total claims against all three NAFTA parties is \$5 billion.
<b>Total Cases Currently in Active Arbitration:</b>	<b>11 Cases</b>			7 against the United States, 1 against Canada, 3 against Mexico
<b>Dismissed Cases (Won by NAFTA governments):</b>	<b>6 Cases</b>			Loewen, Mondev, ADF, Azinian, Waste Management, GAMI
<b>Cases Won by Investors:</b>	<b>5 Cases</b>	<b>\$35 million awarded</b>		Ethyl, S. D. Myers, Pope & Talbot, Metalclad, Karpa (Feldman)

## REFERENCES

Brunelle, Dorval et Deblock, Christian (dir.), *L'ALÉNA : le libre-échange en défaut*, 2004, Montréal, Éditions Fides, 460 pages.

Cosbey, Aaron, "NAFTA's Chapter 11 and the Environment", *IISD*, CEC's Joint Public Advisory Committee (briefing paper), Ottawa, June 17-18, 2002, p.1

Mann, Howard, *Private Rights, Public Problems: A guide to NAFTA's controversial chapter on investor rights*, International Institute for Sustainable Development, 2001, 110 pages.

Pastor, Robert A., « Toward a North American Community: Lessons from the Old World for the New », Washington, D.C., Institute for International Economics, 2001.

Public Citizen, *NAFTA Chapter 11 Investor-to-State Cases: Bankrupting Democracy*, septembre 2001.

Proulx, Denise « Réunion demain des ministres de l'Environnement - Des règles de transparence doivent encadrer le chapitre 11 de l'ALÉNA », *Le Devoir*, 17 juin 2002.

St-Cyr, Richard, ALÉNA, « Chapitre 11 sur les investissements », *Infocom*, Ministère du développement économique et régional, gouvernement du Québec, Oct. 2003.

Wälde, Thomas W., "Why Can't NAFTA Chapter 11 be More Like the WTO?", *Transnational Dispute Management*, (May 2004) Vol 1, no.2.

## RECOMMENDED WEB SITES

[www.dfait-maeci.gc.ca/nafta-alena/chap11-en.asp](http://www.dfait-maeci.gc.ca/nafta-alena/chap11-en.asp)

[www.state.gov/s/l/c3439.htm](http://www.state.gov/s/l/c3439.htm)

[www.sre.gob.mx](http://www.sre.gob.mx)

[www.mineco.gob.gt/mineco/tlc/index\\_tlc\\_mx.htm](http://www.mineco.gob.gt/mineco/tlc/index_tlc_mx.htm)

[www.carleton.ca/ctpl/ch11papers/hartdymond.htm](http://www.carleton.ca/ctpl/ch11papers/hartdymond.htm)

[www.clm.com/pubs/pub-990359\\_1.html](http://www.clm.com/pubs/pub-990359_1.html)

[www.citizen.org/trade/nafta/CH\\_\\_11/index.cfm](http://www.citizen.org/trade/nafta/CH__11/index.cfm)

<http://www.iisd.org/>

<http://ambiental.uaslp.mx/docs/LMNC-AP020314.pdf>

### **c) La eficiencia energética y fuentes renovables de energía<sup>35</sup>**

#### *Contexto general*

El acceso a servicios de electricidad confiables, a precio accesible, es de fundamental importancia para la economía. Lamentablemente, las instalaciones clásicas de generación de electricidad constituyen uno de los sectores más contaminantes de la actividad económica. En América del Norte, la mayor parte de la electricidad es generada por centrales alimentadas con combustibles fósiles, es decir carbón, fueloil y gas natural. Ahora bien, el uso de estos combustibles produce emisiones de contaminantes atmosféricos como el dióxido de carbono, el anhídrido sulfuroso y los óxidos de nitrógeno. Estos contaminantes contribuyen al cambio climático mundial y a la formación de lluvias ácidas y del smog. Además, el acondicionamiento de las minas y pozos de perforación para la extracción de combustibles fósiles tiene repercusiones nefastas en el medio ambiente.

Otras fuentes de energía presentan diferentes riesgos para el medio ambiente y la salud humana. La energía nuclear, por ejemplo, requiere el depósito seguro de residuos radioactivos por un período de entre 10.000 y 240.000 años. Incluso las grandes plantas generadoras de energía hidroeléctrica, que no contribuyen a la contaminación atmosférica como las centrales que utilizan combustibles fósiles, pueden provocar inundaciones de amplias zonas y perturbar el hábitat natural de las especies salvajes. Para dar fin a estos problemas, América del Norte cuenta con una amplia gama de soluciones alternativas, tales como la adopción de tecnologías más limpias, el incremento de la eficiencia energética y el uso de fuentes de energía renovables.

Los recursos energéticos renovables son inagotables y reducen considerablemente las repercusiones ambientales de la generación de energía. Por ejemplo, las células solares captan los rayos del sol y las turbinas eólicas captan la energía cinética del viento para alimentar las plantas generadoras de electricidad. La energía extraída de la biomasa se produce mediante la combustión de desechos de madera, de otras materias vegetales o de gas de vertedero de desechos; el calor y el vapor generados por esta combustión se utilizan para alimentar las centrales generadoras. Entre los otros recursos renovables que ofrecen posibilidades de explotación, se cuentan la energía geotérmica, la hidroelectricidad, la energía de las mareas y la energía procedente del hidrógeno.

Sin embargo, la generación eléctrica que utiliza estas fuentes renovables se realiza generalmente con un costo económico más elevado. Los mecanismos de precios (impuestos, subsidios o tarifas “verdes”) sirven con frecuencia para crear incentivos

---

<sup>35</sup> “El presente documento fue preparado por la Secretaría de la Comisión de Cooperación Ambiental (CCE) de América del Norte. Los propósitos, puntos de vista u otras informaciones contenidas en este documento no reflejan necesariamente las opiniones de los gobiernos de Canadá, México o Estados Unidos”.

financieros destinados a empresas y consumidores, con el objeto de internalizar los costos ambientales vinculados a los procesos de producción o de consumo. El hecho de que estos costos siguen siendo externos constituye una falencia del mercado, el cual no puede asignar a empresas y consumidores los costos ambientales adicionales asumidos por la sociedad; esta falencia basta para justificar la implantación de mecanismos que contribuyan a la internalización de dichos costos. Si los mecanismos centrados en el mercado despiertan interés, es porque día a día hay un mayor reconocimiento de que constituyen una alternativa satisfactoria para las modalidades más usuales de regulación ambiental. Estas modalidades se apoyan generalmente en esquemas de regulación uniformizados que estipulan el uso de tecnologías precisas para contrarrestar la contaminación — en lugar de establecer mecanismos flexibles tendientes a alcanzar los objetivos ambientales deseados — y que no dejan a los mercados la posibilidad de ofrecer incentivos para una integración rentable de los costos ambientales.

Por más promisorios que sean, los mecanismos centrados en el mercado deberán ser elaborados cuidadosamente para lograr realmente los objetivos ambientales fijados, a pesar de la asimetría de la información de la que disponen las autoridades regulatorias y los sectores o empresas reguladas. En efecto, los impuestos ecológicos, o ecotasas, permiten medir el precio de los contaminantes, pero no su volumen. A la inversa, los topes y los intercambios de derechos de emisión permiten determinar el volumen de las emisiones, pero no los precios. Además, se deberán definir las políticas de tal manera que se puedan aplicar (con un costo razonable) y que puedan ser políticamente aceptables.

Los gobiernos establecen instrumentos llamados “mecanismos obligatorios centrados en el mercado” que abarcan elementos tales como normas de eficiencia, normas relativas a las carteras de energías renovables, impuestos, subsidios y reforma de los subsidios, regulación de la producción, exigencias en materia de etiquetados, programas de recompra y de retiro, intercambio de derechos de emisión.

En todos los casos, los gobiernos deben desempeñar una función, ya sea para elaborar políticas explícitas centradas en el mercado o para crear las estructuras, los reglamentos o los métodos de contabilidad que, por un lado, mejoren el funcionamiento de los mecanismos basados en el mercado y que, por otro, inciten a consumidores y productores a tomar en cuenta los costos ambientales de su consumo y su producción. Más aún, dada la integración del mercado norteamericano de la electricidad, la coordinación de los esfuerzos entre nuestros tres países es indispensable para el desarrollo de éste.



### *Presentación de los actores importantes y sus posiciones relativas a los retos señalados*

#### a) Gobiernos federales y federados:

Los gobiernos federales de los tres países reconocen la importancia de incrementar el uso de las fuentes renovables en la generación de electricidad, esencialmente para mantener la competitividad económica y procurar la seguridad energética, si bien este concepto no reviste el mismo significado para cada país. Asimismo, todos son conscientes de los impactos ambientales que el uso de los combustibles fósiles provoca.

Los gobiernos de las provincias y de los estados también son sensibles a estas cuestiones y contribuyen al establecimiento de leyes y reglamentos tendientes a favorecer el desarrollo del mercado de las energías renovables. De esta forma, diversos estados y provincias solicitan o proponen que se exija una cartera de proyectos de energía renovable. Estas reglas imponen que una proporción mínima de electricidad producida provenga de fuentes renovables y constituyen una herramienta popular y eficaz para estimular el desarrollo de dichas energías.

#### b) Grupos de presión (lobbys, ONG, asociación, etc.)

La presión de los grupos ambientalistas, como GreenPeace, es muy fuerte y apoya el desarrollo de energías renovables. Grupos como el Center for Resource Solutions, World Ressources Institute, CERES y otros han desarrollado también programas de incentivos para el desarrollo y la compra de energías renovables.

#### c) Empresas privadas

Las empresas generadoras de energías renovables se consideran generalmente desfavorecidas por las políticas gubernamentales. Numerosos proyectos hidroeléctricos de magnitud, así como diversos proyectos vinculados a la generación de energía a partir de combustibles fósiles han recibido inversiones públicas importantes o subsidios para su desarrollo. Asimismo, el precio pagado para obtener la energía “tradicional” no toma en consideración los daños ambientales que la misma genera. Por consiguiente, varias empresas insisten en la desigualdad del mercado, que se traduce artificialmente en un precio más bajo para la energía “tradicional”.

#### d) Individuos (opinión pública, agrupaciones de ciudadanos, medios de comunicación, etc.)

Generalmente, la opinión pública está a favor de un mayor uso de fuentes renovables para la generación de energía. Sin embargo, la construcción de centrales hidroeléctricas de pasada y de parques eólicos ha suscitado también la oposición de una parte de la población. El síndrome “en mi casa no” constituye pues un freno al desarrollo del mercado para la energía renovable.

### *Propuestas formales para suscitar el debate*

#### 1. Adopción de cupos comunes en materia de suministro de energías renovables para edificios públicos, privados y/o residenciales

Los cupos obligan a los gobiernos, empresas y consumidores a que una mínima parte de sus compras de energía provenga de fuentes renovables. De esta manera se garantiza a los productores de este tipo de energía una demanda para su producto, favoreciendo así la inversión en este sector.

En América del Norte, 14 Estados americanos y una provincia canadiense tienen una ley que requiere que una proporción mínima de la electricidad producida proceda de fuentes renovables: Arizona, California, Connecticut, Hawai, Illinois, Iowa, Maine, Massachusetts, Minnesota, Nevada, New Jersey, Nuevo-México, Texas, Wisconsin, Quebec. Once otros Estados y el Gobierno de los Estados americanos tienen por su parte propuesto una ley de este tipo.<sup>36</sup>

#### 2. Creación de un mercado integrado norteamericano de certificados en energías renovables

El mercado de los certificados de energías renovables permite que los productores vendan en forma separada la energía producida y sus servicios ambientales. El valor y la credibilidad de estos certificados exigen un sistema de seguimiento para garantizar la contabilidad de los mismos. Diez Estados y una provincia de Ontario utilizan o prevén utilizar CER a efectos del cumplimiento de las normas relativas a la cartera de energía renovable (NPER): Arizona, la California, el Connecticut, Maine, el Massachusetts, Nevada, New Jersey, el Nuevo-México, Texas, el Wisconsin y el Ontario. En México, se interesa cada vez más por la comercialización de los CER en los mercados de los gases de efecto invernadero, lo que requeriría un mecanismo de seguimiento y comprobación.<sup>37</sup>

#### 3. Inserción de criterios “verdes” en la tabla de análisis de los gobiernos para el otorgamiento de contratos públicos o el acceso a los mercados públicos

Elegir a un proveedor considerando únicamente criterios de orden económico desfavorece la compra de energías renovables ya que, como lo destacamos anteriormente, estas formas de energía son con frecuencia más costosas. Un proceso de selección basado en una tabla de análisis que tomase en consideración los beneficios ambientales favorecería el desarrollo del mercado de las energías renovables.

---

<sup>36</sup> Carpentier, Chantal Line, et Patterson, Zachary, « Mais qu'est-ce que l'énergie renouvelable? », Commission de coopération environnementale de l'Amérique du Nord.  
« [www.cec.org/pubs\\_docs/documents/index.cfm?varlan=français&ID=1392](http://www.cec.org/pubs_docs/documents/index.cfm?varlan=français&ID=1392) »

<sup>37</sup> Wingate, Meredith et Lehman, Matthew, « L'état actuel des systèmes de suivi en énergie renouvelables », The Center for Resources Solutions, décembre 2003, p.7.

## ANNOTATED BIBLIOGRAPHY

### **Commission for Environmental Cooperation Publications and Work on: Environment and Energy in North America**

Environment, Economy and Trade Program, February 2005

#### **Electricity and the Environment webpage**

[http://www.cec.org/programs\\_projects/other\\_initiatives/electricity/index.cfm?varlan=english](http://www.cec.org/programs_projects/other_initiatives/electricity/index.cfm?varlan=english)

The Electricity and the Environment webpage of the North American Commission for Environmental Cooperation (CEC) ensues from an Article 13 Report: “*Environmental Challenges and Opportunities of the Evolving North American Electricity Market*” (2002).

Links to the following background papers as well as to government comments on the report can be found on that page. Among other things, this background material was intended to stimulate discussion and elicit comments from the public and the Electricity and Environment Advisory Board, in addition to providing information for the 29–30 November 2001 Symposium: “*Environmental Challenges and Opportunities of the Evolving North American Electricity Market*.” All documents can be downloaded from CEC’s website.

1. A Retrospective Review of FERC’s Environmental Impact Statement on Open Transmission Access, Tim Woolf, Geoff Keith and David White (Synapse Energy Economics) and Frank Ackerman (The Global Development and Environment Institute, Tufts University), June 2002.
2. A Review: *Environmental Challenges and Opportunities of the North American Electricity Market* Symposium, Joseph M. Dukert, June 2002.
3. Assessing Barriers and Opportunities for Renewable Energy in North America, William R. Moomaw (Fletcher School, Tufts University), June 2002.
4. Design and Legal Consideration for North American Emissions Trading, Douglas Russell (Global Change Strategies International), June 2002.
5. Environmental Challenges and Opportunities of the Evolving North American Electricity Market, Scott Vaughan, Zachary Patterson, Paul Miller and Greg Block (CEC), June 2002.
6. Estimating Future Air Pollution from New Electric Power Generation, Paul Miller, Zachary Patterson and Scott Vaughan (CEC), June 2002.
7. European Electricity Generating Facilities: An Overview of European Regulatory Requirements and Standardization Efforts, Lisa Nichols, June 2002.
8. Modelling Techniques and Estimating Environmental Outcomes, Zachary Patterson (CEC), June 2002.

9. NAFTA Provisions and the Electricity Sector, Gary Horlick, Christiane Schuchhardt (O'Melveny & Myers LLP) and Howard Mann (International Institute for Sustainable Development), June 2002.

### **Electricity and Environment Database**

<http://www.cec.org/databases/certifications/Cecdata/index.cfm?websiteID=3>

The Electricity and Environment Database is part of the CEC's effort to provide online information relating to the "Environmental Challenges and Opportunities of the Evolving Continental Electricity Market" and the green goods and services certification projects. The database is searchable by keyword or text, and contains the following information on government and non-government initiatives from Canada, Mexico and the United States:

1) Measures targeting electricity production:

- Third party certification programs and their criteria;
- Environmental marketing guidelines for electricity; and
- Renewable energy definitions and renewable portfolio standards from electricity restructuring legislation both at the state/provincial and federal level.

2) Measures targeting electricity consumption:

- Third-party certification programs for electric products and criteria for selected products;
- Legislation requiring information labelling on electrical efficiency; and
- Mandatory product-specific efficiency standards.

The database allows users and stakeholders to compare and contrast current programs and legislation with the objective of fostering increased communication and cooperation among the parties involved. It is hoped that this resource will facilitate the establishment of mutual recognition programs and agreements among power producers, policy makers and certifiers.

### **Other CEC publications**

18. Evaluating Simplified Methods of Estimating Displaced Emissions in Electric Power Systems: What Works and What Doesn't. Geoffrey Keith, Bruce Biewald and David White (Synapse Energy Economics). November 2004.

[http://www.cec.org/pubs\\_docs/documents/index.cfm?varlan=english&ID=1696](http://www.cec.org/pubs_docs/documents/index.cfm?varlan=english&ID=1696)

Also available in French and Spanish

This paper expands on a paper written for the Commission on Environmental Cooperation in 2003, titled Estimating the Emission Reduction Benefits of Renewable Electricity and Energy Efficiency in North America: Experience and Methods. That paper explored the important methodological issues related to estimating the net air

impacts of new resources in electric power systems. The paper also reviewed a number of projects in which net emission benefits have been estimated, including projects using power system simulation models and projects not using such models. Over the past year, there has been growing interest in further evaluation of the non-modeling-based methods. The goal of this paper is to lay the groundwork for determining which non-modeling-based method can provide the best estimates of displaced emissions and under what circumstances use of that method would be appropriate.

17. Market-based mechanisms for Carbon Sequestration, Energy Efficiency and Renewable Energy in North America: What are the Options? Zachary Patterson and Chantal Line Carpentier, CEC. December 2003.

[http://www.cec.org/pubs\\_docs/documents/index.cfm?varlan=english&ID=1439](http://www.cec.org/pubs_docs/documents/index.cfm?varlan=english&ID=1439)

Also available in French and Spanish

This paper examines the different market-based mechanisms that could be used to encourage the sequestration of carbon, increase energy efficiency, and support the development and use of renewable energy sources. Market-based mechanisms in this paper refer to all mechanisms, voluntary or mandatory, that affects demand for, or supply of, energy and/or carbon sequestration—either through prices, regulation or information.

16. The Current status of Renewable Energy tracking system certificates in North America. Meredith Wingate & Matthew Lehman. (Center for Resource Solutions). December 2003.

[http://www.cec.org/pubs\\_docs/documents/index.cfm?varlan=english&ID=1488](http://www.cec.org/pubs_docs/documents/index.cfm?varlan=english&ID=1488)

Also available in French and Spanish

This paper discusses and compares current or proposed systems for tracking renewable electricity certificates (REC) in North America. It also introduces the North American Association of Issuing Bodies (NAAIB)—an institution being created that will serve as a central bank for accounting and tracking RECS in North America.

Tracking systems are important because they ensure that: 1) RECs represent renewable generation; 2) certificate ownership is transferred between account holders; 3) certificates are retired when used to make state or regional regulatory requirements; and 4) certificates are not double-counted.

There are currently three operational systems in the US for issuing and tracking renewable generational certificates: the Texas REC Program, the New England GIS and the Wisconsin RRC Program. Other renewable certificate-tracking systems are under

consideration in various states and the province of Ontario; none are now foreseen in Mexico.

15. Estimating the Environmental Benefits of Renewable Energy and Energy Efficiency in North America: Experience and Methods, Geoffrey Keith, Bruce Biewald and Anna Sommer (Synapse Energy Economics), Patrick Henn (Helios Center) and Miguel Breceda (Energy Matters). September 2003.

[http://www.cec.org/pubs\\_docs/documents/index.cfm?varlan=english&ID=1214](http://www.cec.org/pubs_docs/documents/index.cfm?varlan=english&ID=1214)

English only

This paper explores important methodological issues related to estimating the net atmospheric impacts of specific resources in electric systems. In addition, it describes a number of projects undertaken across North America in which the emissions benefits of new resources—both renewable projects and efficiency programs—have been estimated. Finally, it briefly explores different views of the principles that should underlie this kind of work and several important policy issues that this work raises.

14. Follow-up Survey on Renewable Electricity of Large Mexican Electricity Consumers. Presentation. CEC. February 2003.

[http://www.cec.org/files/PDF/ECONOMY/Follow-up-Survey-Renewable-Electricity-Mex\\_en.pdf](http://www.cec.org/files/PDF/ECONOMY/Follow-up-Survey-Renewable-Electricity-Mex_en.pdf)

English only

This survey, commissioned by the CEC in collaboration with CONAE, is from Gallup Mexico. Surveyors queried a hundred of the largest electricity consumers in Mexico, such as large iron, steel, cement, paper or mining industries. The goal of the survey was to find out about the companies' awareness of renewable electricity, and whether they would be interested in purchasing renewable electricity even if it were more expensive. It also explores, for instance, barriers to purchasing renewable energies, or the interest in, and barriers to, producing renewable electricity.

13. Energy Use in the Cement Industry in North America: Emissions, Waste Generation and Pollution Control, 1990–2001. Marisa Jacott (Fronteras Comunes), Cyrus Reed (Texas Center for Policy Study), Amy Taylor and Mark Winfiel (The Pembina Institute for Appropriate Development). February 2003.

[http://www.cec.org/pubs\\_docs/documents/index.cfm?varlan=english&ID=1047](http://www.cec.org/pubs_docs/documents/index.cfm?varlan=english&ID=1047)

English only

This paper examines issues related to the use of energy inputs in the manufacture of cement clinker and cement in Mexico, Canada and the US since implementation of NAFTA in 1994. Cement manufacturing is a key industry in all three countries, and a major user of energy. In recent years, trade and investment between the three NAFTA countries has increased in this sector of the economy. As part of this increased production, trade and investment in cement manufacturing, decisions have been made about the type of energy used to fuel the kilns where the cement clinker is produced.

12. The Conflicting Economic and Environmental Logics of North American Governance: NAFTA, Energy Subsidies and Climate Change, Robin Jane Roff, Anita Krajnc, Stephen Clarkson. February 2003.

[http://www.cec.org/pubs\\_docs/documents/index.cfm?varlan=english&ID=1044](http://www.cec.org/pubs_docs/documents/index.cfm?varlan=english&ID=1044)

English only

The authors of this paper believe that provisions against downward harmonization, the respect for state autonomy in environmental regulation and the creation of the CEC gave hope to North Americans that an environmentally sustainable trade regime was possible. Despite good environmental intentions, the agreement inhibits the achievement of cleaner energy trade by allowing and encouraging the subsidization of fossil fuel development, by preventing governments from regulating the rate of resource depletion, and by entrenching neo-conservative, deregulatory values favouring the priorities of trans-national corporations over those of conservation and environmental protection.

The paper recommends a combination of environmentally sensitive policy changes, including the elimination of perverse subsidies, the subsidization of environmentally friendly energy sources, and the imposition of carbon taxes and demand-side management initiatives. Subsidy reform is not on the continental or international agendas, and this constitutes the most important barrier to progress in this area.

11. What is Renewable? A Summary of Eligibility Criteria Across 27 Renewable Portfolio Standards. CEC. 2003.

[http://www.cec.org/pubs\\_docs/documents/index.cfm?varlan=english&ID=1392](http://www.cec.org/pubs_docs/documents/index.cfm?varlan=english&ID=1392)

Also available in French and Spanish

There are currently 25 US states, as well as the United States Federal Legislature and the province of Quebec, which have either passed or proposed legislation requiring (or setting as a goal) a certain proportion of electricity production from particular fuel sources considered to be environmentally preferable to conventional sources. These pieces of legislation are most commonly referred to as renewable portfolio standards. Each of these standards delimits which resources and technologies will qualify as

“renewable” in this context. This paper examines the range of definitions that have been proposed and/or passed across the 27 pieces of legislation, and considers where there is the most convergence in these criteria across North America.

10. Summary of the “Technical Meeting on Approaches to Estimating Environmental Benefits of Renewable Energy and Energy Efficiency,” 17–18 July, 2003, Washington DC. CEC. 2003.

[http://www.cec.org/pubs\\_docs/documents/index.cfm?varlan=english&ID=1364](http://www.cec.org/pubs_docs/documents/index.cfm?varlan=english&ID=1364)

Also available in Spanish

This meeting brought together experts from across North America working on the development of approaches to estimating the environmental benefits of renewable energy and energy efficiency. The purpose of the meeting was to share information and to discuss the necessary steps to producing credible and agreed-upon estimates of the environmental benefits of renewable energy and energy efficiency. The meeting was organized by the CEC with the help of the collaborating organizations of Conae and the Ministry of Energy of Mexico, Environment Canada and the US EPA.

9. Overcoming Obstacles to Renewable Energy Sources in Mexico: Lessons from the NAFTA Partners, Proceedings, 7 February 2003, Mexico City. CEC. 2003.

[http://www.cec.org/pubs\\_docs/documents/index.cfm?varlan=english&ID=1167](http://www.cec.org/pubs_docs/documents/index.cfm?varlan=english&ID=1167)

Also available in French and Spanish

Renewable energy (RE), including large hydro, currently represents only nine percent of total production and 15 percent of total consumption of primary energy in Mexico. However, due to its geographical location and climatic conditions, Mexico has abundant Sector Privado para el Desarrollo Sostenible-CESPEDES) and the National Commission for Energy RE sources practically throughout its territory. As a result, renewable sources of electricity show great potential to complement and replace fossil fuels.

To explore ways of taking advantage of RE potential in Mexico, the CEC, the Center for Private-Sector Studies on Sustainable Development (Centro de Estudios del Conservación Comisión Nacional para el Ahorro de Energía-Conae) held this meeting jointly.

8. Private Investment in Mexico's Electricity Sector (Technology and Energy Selection). Miguel G. Breceda-Lapeyre. November 2002.

[http://www.cec.org/pubs\\_docs/documents/index.cfm?varlan=english&ID=1193](http://www.cec.org/pubs_docs/documents/index.cfm?varlan=english&ID=1193)

Also available in Spanish



This paper supplements a report produced recently for the CEC on private-sector investment in Mexico's electricity sector. Based on official information provided by the Mexican power sector authorities and, in particular, the register of permits issued by the Energy Regulatory Commission for electricity production, an overview is given of the characteristics and status of permits issued to generation facilities, the amounts and sources of the corresponding investments, and the primary technologies and energy sources used in power generation by the private sector.

7. Private investment in Mexico's electricity sector. Miguel G. Breceda-Lapeyre. November 2002.

[http://www.cec.org/pubs\\_docs/documents/index.cfm?varlan=english&ID=1192](http://www.cec.org/pubs_docs/documents/index.cfm?varlan=english&ID=1192)

Also available in Spanish

This report contains an update on Mexico's electricity sector, especially on its current and projected installed capacity and generation requirements including capital, the market share of private capital in the national generating pool and the rate of investment flows into the country's power industry. International trade patterns in electricity are discussed, as well as the relationship between private investments in the planned exports of electricity.

6. Mexico and Emerging Carbon Markets. Investment Opportunities for Small and Medium-size Companies and the Global Climate Agenda. CEC. 2001.

[http://www.cec.org/pubs\\_docs/documents/index.cfm?varlan=english&ID=429](http://www.cec.org/pubs_docs/documents/index.cfm?varlan=english&ID=429)

Also available in French and Spanish

The purpose of this report is to identify potential financing opportunities in Mexico related to the climate agenda. By engaging the private sector in the environmental agenda and in defining cooperative approaches that combine regulatory measures with incentive-based and market-led approaches, innovative and cost-effective solutions will be found that meet the shared demand for high levels of environmental quality.

This report explores whether high levels of environmental standards would place countries at a competitive disadvantage, and refers to this ongoing debate. It explains that a strong body of empirical evidence, suggesting that such a dichotomy between either a strong economy or a strong level of environmental protection, is not valid. It also reveals that more and more companies are adopting different kinds of environmental targets and benchmarks within their operations.

5. Environment and Trade Series, #6. Issue Study 3. Electricity in North America: Some Environmental Implications of the North American Free Trade Agreement. CEC. 1999.

[http://www.cec.org/pubs\\_docs/documents/index.cfm?varlan=english&ID=305](http://www.cec.org/pubs_docs/documents/index.cfm?varlan=english&ID=305)

Also available in French and Spanish

Issue Study 3 focuses on the generation of electricity by private and publicly owned entities in Canada, Mexico and the United States. It includes the upstream industries that provide the major fuel sources from which electricity is generated in North America—notably, coal, natural gas and hydroelectricity. It also considers downstream processes of consumption for industrial, commercial and residential purposes, and some relevant industries.

4. Opportunities for North American Cooperation on Energy Efficiency: a Scoping Study, International Institute for Energy Conservation, Marbek Resource Consultants, Odón de Buen. January 1996. Available upon request

Energy efficiency is an important component of North American efforts to reduce the environmental degradation associated with energy use. In this report, the authors examine:

- the link between energy efficiency and the environment;
- energy consumption in the industrial, commercial, residential and transport sectors of each of the three NAFTA countries;
- the cost-effective potential for energy use in the NAFTA market; and
- key opportunities to promote energy efficiency in North America.

The report reveals that there are a number of areas where increased cooperation among Canada, Mexico and the US could improve markets for energy-efficient technologies and services as well as the availability of financing for energy upgrades. It is important to note that while the report thoroughly covers the electricity sector, it touches only briefly on transportation

3. Case Study: Trade Liberalisation and the North American Motor Market, International Institute for Energy Conservation, Marbek Resource Consultants & Odon De Buen. March 1996.

Available upon request

This case study of the North American electric motors market focuses on the opportunities for pursuing NAFTA-wide cooperation on energy efficiency. Two specific opportunities for cooperation in relation to energy performance standards were identified: enhancement of Mexican energy performance standards, and collaboration on cross-border issues.

The case study outlines some of the major changes that have occurred within the electric motor industry throughout North America, discusses key influencing factors such as the Free Trade Agreement and NAFTA, and identifies some of the implications

related to pursuing the enhancement of Mexican energy performance standards and collaboration between Canada, the US and Mexico on cross-border issues.

2. North American Cooperation on Voluntary Energy Efficiency Programs: a Case Study. International Institute for Energy Conservation, Marbek Resource Consultants, Rafael Friedmann. December 1996.

Available upon request

This case study of voluntary energy efficiency programs is a companion document to the recently completed energy efficiency “scoping study” undertaken for the CEC. It is meant to develop further information, insights and recommendations relevant to specific opportunities identified by the scoping study for the CEC to promote voluntary approaches to energy efficiency on a tri-national basis in North America. Most of the experience to date with voluntary energy efficiency programs has been gained in Canada and the US. Hence, the purpose of this case study has been to identify ways of enabling this experience to be applied throughout the NAFTA region.

1. Renewable Energy Mini-Grid Project: Pre-Feasibility Study. Michael Bergey. May 1995.

Available upon request

The study is an account of the “APS / CFE Renewable Energy Mini-Grid Project.” The project is a sustainable rural electrification project (in the Mexican states of Baja California and Sonora) that seeks to demonstrate commercial wind and solar hybrid systems as a more cost-effective and environmentally benign alternative to the conventional village electrification approaches of grid-extension or autonomous diesel generators. Environmental impacts of the projects are discussed, and detailed analyses of the CO<sub>2</sub> reduction potentials are provided.

A complete list of CEC publications is available online at:  
[http://www.cec.org/pubs\\_info\\_resources/index.cfm?varlan=english](http://www.cec.org/pubs_info_resources/index.cfm?varlan=english)

Should you require any other information on the electricity sector in North America, please contact: <[info@ccemtl.org](mailto:info@ccemtl.org)>.

### **c) Immigration: balancing prosperity, rights and security**

Immigration has always been aimed at meeting the economic, social, humanitarian and political needs of society. However, following the events of September 11, 2001, it has assumed a major security dimension that has led governments to further tighten the repressive mechanism related to illegal immigration. Immigration is a complex area that affects government policies and international cooperation. The major challenge is to strike a balance among the goals of prosperity, the need for social cohesion, the demand for security, as well as the need to protect individual rights.

For Washington, immigration has a high security component, as evidenced by the transfer of the selection of immigrants to the Department of Homeland Security, and the significant increase in the number of border agents. Nevertheless, the economic impact of immigrants to the United States remains considerable because of the number and type of work they do on the job market. For Mexico and Canada, immigration means prosperity, but for different reasons. The majority of illegal immigrants who come to the US in search of better job opportunities are from Mexico. In fact, every year, more than 500,000 Mexicans move to the US and, of the over eight million who now live in the US, three million are illegal.<sup>38</sup> Money transfers by immigrants represent a huge source of income for Mexico<sup>39</sup> and their economic activity, both legal and illegal, is essential for the survival of entire sections of American economy. In Canada, the host country for a great number of immigrants and refugees, immigration not only plays a major demographic role at this time of population ageing, but it is also a source of unquestionable economic prosperity. Yet, the Canadian government pays no special attention to the North American region as far as immigration is concerned.

In the context of strengthened ties between the North American partners, should cooperation and coordination be enhanced with regard to immigration? Many factors could encourage the three countries to work together to jointly address the management of issues relating to immigration and border control. First, the growth in trade and the increase in economic integration between the three countries necessitate greater efficiency in border control measures in close cooperation in order to facilitate the entry and movement of legal immigrants across North America and to prevent the entry and settlement of immigrants who pose a threat to national security. Secondly, since the economic development of each country is greatly affected by facilitating the entry of immigrants at the borders and by harmoniously integrating immigrants into the labor market, a united effort in managing immigration policies would be desirable.

---

<sup>38</sup> Statistics provided by the National Population Council of Mexico. See : "Every year, 500 000 Mexicans move to the US," *Latin Reporters*, 14 April 2001. Available on line [URL] : [www.latinreporters.com/mexiqueeco140401.html](http://www.latinreporters.com/mexiqueeco140401.html)

<sup>39</sup> It is estimated that 9 million dollars per year is transferred by Mexicans living in the United States. See: *Statistics on International Trade in Services*, Vol. I, OECD/Eurostat, 2004, p. 41 (<http://www.oecd.org/dataoecd/39/40/31710078.pdf>).

The events of September 11, 2001, as we know, have led to the adoption of more restrictive national measures regarding terrorism. As a result, Mexico, Canada, and the United States have greatly increased their cooperation in border management, but they still prefer to work out bilateral agreements over a trilingual agreement. Although the two bilateral approaches have certain similarities, the absence of common approaches and joint programs is obvious. As a result, in March 2002, Mexico and the United States signed an *Accord on Our Shared Border* and Canada and the United States issued a *Smart Border Declaration*. The 22 points of the first agreement and the 30 points of the second bore many similarities, a sign that hopes of a possible trilateral accord are not lost.

Beyond the bilateral agreements, Mexico has made consistent demands to the American government for an immigration understanding that have faced many political obstacles over the past few years. The demands focus on the following:

- regularizing the status of illegal Mexican immigrants who work in the United states;
- introducing a seasonal workers' program similar to that in Canada;
- issuing a number of visas that take into account the realities of migration;
- fostering development in the major areas of origin of immigrants;
- making compromises in order to ensure that the rights of immigrants are respected.<sup>40</sup>

A representative of the American government, Secretary Tom Ridge, recently expressed his desire to adopt an immigration agreement, provided that it is not an amnesty. In fact, the American government would like to obtain an immigration agreement that favors the movement of workers similar to the European model where European Community nationals work anywhere in the European community.<sup>41</sup> Yet Canada, in spite of its reputation as being a welcoming country for immigrants, didn't get involved in these issues that are central to the development of North America.

On the subject of immigration, NGO that work in protecting the rights of immigrants have many concerns about moves to coordinate North American immigration policies, especially the increased violation of the basic rights of immigrants when adopting a system based on the least common denominator. They also heavily criticized the security measures adopted since the September 11 events that oppose, among others, the risk of racial profiling, abusive detention and infringement on privacy. They are also supported on this issue by trade unions that wish to guarantee the rights of migrant workers and by the legal professions that denounce the exceptions of these new measures on deep-rooted legal - or even constitutional - guarantees. For their part, private businesses and business associations favor greater worker mobility in order to ensure greater flexibility in the North American labor market.

---

<sup>40</sup> Proposals by Santiago Creel, Secretary of Gobernación, to Tom Ridge February 25, 2005. [www.esmas.com/noticierostelevisa/mexico/346668.html](http://www.esmas.com/noticierostelevisa/mexico/346668.html)

<sup>41</sup> Ibid.

Given the various positions held by different governmental and non-governmental organizations on the subject, we believe that a trilateral understanding is possible and very desirable in order to face the numerous challenges posed by immigration. Such an agreement should consider the following five objectives:

1. aim towards rapid, efficient and safe management of people moving across borders;
2. improve the working conditions and the life of North American immigrants and ensure the protection of their basic rights;
3. encourage a feeling of belonging to a collective North-American community, especially among immigrant workers;
4. encourage measures aimed at establishing a climate of mutual trust and cooperation; and
5. consider the discrepancies in human and financial resources and political limitations, in order to foster a gradual implementation of measures adopted.

In keeping with these principles, we will propose three suggestions. You can work from these suggestions or present other proposals, provided they take into consideration the five general principles mentioned.

#### 1. North American Agreement for Granting of Work Visas

To accord greater mobility to migrant workers and to ensure better working conditions, visa standardization measures are required. Here are a few components that should be included in a joint work visa policy:

- 1) regularize the status of current migrant workers;
- 2) establish a common list of countries whose nationals require a visa to visit North America<sup>42</sup>;
- 3) negotiate a broader agreement aimed at specifying the jobs, rights, working conditions and length of stay of North American migrant workers who will be favored in these areas relative to immigrants from other countries;
- 4) institute the common identification of individuals who require greater monitoring and those not admissible into North America;
- 5) introduce biometric information on visas, resulting in quick and efficient visa verification;
- 6) increase the number of visas issued to North Americans.

#### 2. North American ID (NAID)

This proposal will lead to better control of all North Americans, including immigrants. It will facilitate the passage of legal immigrants while preventing entry to those who

---

<sup>42</sup> This is currently being practiced in Canada and the United States.

may pose a threat to North American security. Information is exchanged about suspicious immigrants by entering the relevant security information on an ID card that uses biometric technology and, for those who do not pose a danger, entry is facilitated. This card presupposes the creation of a joint database of potential threats and frequent travelers and the setting up of a common information system to store and categorize the information contained on such a card.

One aspect must, however, be considered when implementing this proposal: new laws must be adopted to ensure the privacy of North Americans and measures governing the accountability of intelligence services that will be managing these databases, in order to avoid abuse and actions that infringe on individual rights.

### 3. Common Immigration and Border Control Fund

In order to reduce the economic, technological and human disparities between Mexico, Canada and the United States, a common mechanism will be established to finance new initiatives on border and immigration cooperation, based on the *pro rated* gross domestic product of each country. It will be used to invest in infrastructure and technology in Mexico in order to increase the personnel assigned to North American immigration management, to expand the pre-customs clearance program and to encourage new initiatives. In other words, this fund will provide the means necessary to implement trilateral measures on immigration and border cooperation.

## BIBLIOGRAPHY

Adelman, Howard, « Canadian Borders and immigration post 9/11 », *International Migration Review*, printemps 2002, vol. 36, pp.15-29.

Andreas, Peter et Thomas Biersteker (dir.), *The Rebordering of North America: Integration and Exclusion in a New Security Context*, New York: Routledge, 2003.

Doty, Roxanne Lynne, « Immigration and the Politics of Security », dans Glen Chafetz et al. (dir.), *The Origins of National Interests*, Londres: Frank Cass.

Fortmann, Michel, Alex MacLeod et Stéphane Roussel (dir.), *Vers des périmètres de sécurité? La gestion des espaces continentaux en Amérique du Nord et en Europe*, Outremont : Athéna Éditions, 2003.

Gonzalez, Guadalupe et Stephen Haggard, « The United States and Mexico : A Pluralistic Security Community? », dans Emmanuel Adler et Michael Barnett (dir.), *Security Community*, Cambridge: Cambridge University Press, 1998.

Haglund, David G., « North American Cooperation in an Era of Homeland Security », *Orbis* 46, automne 2003.

Hristoulas, Athanasios et Stéphane Roussel, « Le trilatéralisme sécuritaire en Amérique du Nord : rêve ou réalité? », dans Albert Legault (dir.), *Le Canada dans l'orbite américaine : la mort des théories intégrationnistes?*, Sainte-Foy : Presses de l'Université Laval, 2004, pp.41-57.

Hufbauer, Gary C. et Yee Wong, « Security and the economy in the North American context : The road ahead for NAFTA », *Canada-United States Law Journal*, no. 29, 2003, pp. 53-69.

Meyers, Deborah, « Security at US Borders : A Move Away from Unilateralism? », *Migration Policy Institute*, 1er août 2003. Disponible en ligne [URL]: <http://www.migrationinformation.org/USfocus/display.cfm?ID=149>

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

Meyers, Deborah et Kevin O'Neil, « Immigration : Mapping the New North American Reality », *Institut de recherche en politiques publiques*, Working Paper Series no 2004-09i, septembre 2004.

Nunez, Joseph R., *A 21st Century Security Architecture for the Americas : Multilateral Cooperation, Liberal Peace, and Soft Power*, Carlisle, Strategic Studies Institute – US War College, août 2002.



Paterson, Kent, « Deepening U.S.-Mexico Security Cooperation », *Bordelines* 84, no 9, décembre 2001.

Rekai, Peter, « US and Canadian Immigration Policies : Marching Together to Different Tunes », *C.D. Howe Institute Commentary*, no 171, novembre 2002.

Rudolph, Christopher, « Homeland Security and International Migration : Toward a North American Security Perimeter? », *IRPP Conference on North American Integration*, Ottawa, 1-2 avril 2004.

#### SOME USEFUL WEB SITES

Council on American-Islamic Relations: <http://www.cair-net.org/>

Mexico-US Advocates Network: <http://www.enlacesamerica.org>

National Migration Institute: <http://www.mia.org.au/>

Migration News: <http://migration.ucdavis.edu/mn/index.php>

Secretaría de Gobernación: <http://www.gobernacion.gob.mx/>

U.S. Immigration and Naturalization Service: <http://www.formdomain.com/>

U.S. Customs and Border Protection: <http://www.cbp.gov/>

U.S. Department of Homeland Security: <http://www.dhs.gov/dhspublic/>

Citoyenneté et Immigration Canada: <http://www.cic.gc.ca>

Comité de surveillance des activités de renseignement et de sécurité : <http://www.sirc-csars.gc.ca>

Ministère de la Sécurité publique et de la Protection civile : <http://www.psepc-sppcc.gc.ca>

Ambassades des États-Unis au Canada : <http://www.usembassycanada.gov/>

Ambassade des États-Unis au Mexique : <http://www.usembassy-mexico.gov/>

Ambassade du Mexique aux États-Unis : <http://www.embassyofmexico.org/>

Ambassade du Mexique au Canada : <http://www.embamexcan.com/>

Ambassade du Canada aux États-Unis : <http://www.canadianembassy.org/index2.asp>

Ambassade du Canada au Mexique : <http://www.dfait-maeci.gc.ca/mexico-city/>

Commission canadienne des droits de la personne : <http://www.chrc-ccdp.ca>

Commissaire à la protection de la vie privée du Canada : <http://www.privcom.gc.ca>

Consejo Mexicano de Asuntos Internacionales : <http://www.consejomexicano.org/>

Council on Foreign Relations: <http://www.cfr.org/>

Conseil canadien des chefs d'entreprise: <http://www.ceocouncil.ca/>

Consejo Nacional de Población de México: <http://www.conapo.gob.mx/>

## 2. FUNCTIONS

### A) LEGISLATOR

During the simulation, as a member of a commission and a representative of a federal or federated State, you will discuss and propose laws on the related topic that your commission is called upon to present. Through discussions and negotiations with your colleagues, you should contribute to a resolution specific to your commission that will then be voted on at the Interparliamentary Assembly.

In order to familiarize you with the issues proper to the State you represent and to prepare you on how to write a resolution at a commission, you are required to prepare a preliminary draft resolution independantly relating to the topic proposed by your commission. This preliminary draft will help you to identify a possible legislation for your commission and will enable you to specifiy the interests of the State that you represent.

Your preliminary draft, together with those of your colleagues, will enable the general secretariat to prepare a draft resolution for each of the commissions. The draft resolution will be used as a starting point for discussions and negotiations during the simulation.

Your preliminary draft can be inspired by suggestions contained in this document. These suggestions will serve as guidelines for your preliminary draft resolution. You can choose one of the proposals mentionned, fine-tune it and create a unique preliminary draft. You may also propose a preliminary draft resolution not included on the enclosed list, but it should address an important issue that is related to the proposed topic and to the interests of the State you represent.

Your preliminary draft resolution should be written clearly and explore the issue addressed by your commission. You should also respect the interests, customs and desires of the State you represent. The preliminary draft resolution that you submit to the general secretariat will then reflect the interests and objectives of your State. To establish these objectives, we strongly encourage you not only to refer to the bibliographical notes relating to your commission, but to also contact professors, official representatives and organizations of the State you represent in order to become familiar with their interests on the subject.

For logistical reasons, you will not have to take into account the power allocated to you by your appointed country's constitution. Therefore each legislator will be able to adapt bills regarding all of the submitted debates.

To help in drawing up your preliminary draft resolution, we have included a model in the Appendix. When drawing up your own preliminary draft, you should respect the form but not the content of the model.

You will also respect the following requirements on presentation:

- 800 to 1 000 words, with your name at the top of the page (see to the model in the Appendix);
- Font : Georgia, Size 11;
- Single spaced, justified text;
- Use the official language of your commission.

Plagiarism is not permitted and will be punished. Any borrowed ideas or direct sources used should be acknowledged in the preliminary draft resolution.

You must submit your preliminary draft resolution to the general secretariat at « **jmassie@fina-nafi.org** » no later than **April 16, 2005**. Delays in submissions will taken into account.

## B) JOURNALIST

As a journalist, during the simulation, you will produce a newspaper that will be published and distributed to all participants at the Triumvirate. It will include various articles and interviews written before and during the week of the simulation. During the simulation, you will be assigned to different positions in the writing team; photographer, editorialist and journalist. One person will be the editor-in-chief during the simulation. You will be assigned an ideological leaning to enable you to assume your role.

In order to familiarize yourself with the work and the proposed topics during the simulation, you will write a newspaper article that introduces the issues relating to one of the proposed topics of the Triumvirate. Your article should include an interview with an important personality in the process who represents an ideological leaning and whom you could be required to defend in the editorial. This public figure can be a representative of an interest group (business, union, NGO), a public opinion leader (a journalist who is specialised on the subject, a think tank member, an academic or a researcher), or a political representative (parliamentarian, representative, senator, governor, member of government, etc.). You may also interview one of the participants acting as a legislator or lobbyist at the Triumvirate.

When writing the article, you must respect the following requirements on formal writing:

- Precise and validated information;
- Accuracy of facts and clarity of ideas;
- Intellectual and methodological precision in writing.

You must also respect the following requirements on presentation:

- 800 to 1 000 words, with your name at the top of the page;
- An attractive title;

- Font : Georgia, Size 11;
- Single spaced, justified text;
- Use the language of your choice (French, Spanish, or English).

Plagiarism is not permitted and will be punished. Any borrowed ideas or direct sources used should be acknowledged in the article.

You must submit your article to the general secretariat at « **jmassie@fina-nafi.org** » no later than **April 16, 2005**. Delays in submissions will taken into account.

### C) LOBBYIST

As a representative of an interest group, during the simulation, you will ensure that the draft resolutions proposed at the parliamentary assembly respect the interests of your organization regarding North American integration. Your work is therefore not limited to one commission. You will be called upon to put pressure on the legislators to consider your interests in adopting each of the draft resolutions.

In order to become familiar with your organisation's interests, you must write a position paper outlining at least 5 objectives of your organisation relating to at least two commissions and at least 5 points that you intend to present during the simulation to ensure that your objectives are taken into consideration. To familiarize yourself with the interests of your organisation, we especially encourage you to contact official representatives of similar organisations.

When writing up your paper, you must respect the following requirements on presentation:

- 800 to 1 000 word, with your name at the top of the page;
- Style : Georgia, Font 11;
- Single spaced, justified text;
- Use the language of your choice (French, Spanish, or English)

Plagiarism is not permitted and will be punished. Any borrowed ideas or direct sources used should be acknowledged in the paper.

You must submit your paper to the general secretariat at « **jmassie@fina-nafi.org** » no later than **April 16, 2005**. Delays in submissions will taken into account.

### 3. AWARDS

Your efforts in preparing your proposal to the Triumvirate could be recognised at the Excellence Awards ceremony at the end of the simulation. Awards will be given for the best draft resolution, newspaper article and the best paper. The relevance and quality of texts submitted, as well as respect of deadlines will be considered during the awards. Plagiarised work will be automatically disqualified.

Good luck to everyone !



**North American Forum on Integration**  
4519, rue Saint-Denis, Montréal (Québec), Canada H2J 2L4  
Tel.: (514) 844-8030 | Fax: (514) 844-2030  
[www.fina-nafi.org](http://www.fina-nafi.org) | [info@fina-nafi.org](mailto:info@fina-nafi.org)

## APENDIX

### Model of Preliminary draft of resolution

Preliminary draft of law  
National Assembly of Quebec (Canada)  
First session, thirty-seventh legislature

#### Law on the durable development

Deposited by Mr M. thomas J. Mulcair  
Minister for the Environment

#### EXPLANATORY NOTES

*This preliminary draft of law has the aim of founding a new framework of management within the Administration so that the exercise of its capacities and its responsibilities falls under the search for a durable development.*

*The measurements envisaged by the preliminary draft of law contribute to better integrating the search for a durable development in the policies, the programs and the actions of the Administration, like ensuring, in particular by the adoption of a strategy of durable development, the coherence of the governmental actions in this field.*

*Within the framework of the measures suggested, the " durable development " means continuous process of improvement of the conditions of existence of the current populations which does not compromise the capacity of the future generations to make in the same way and which integrates dimensions harmoniously environmental, social and economic of the development.*

*The preliminary draft of law envisages the appointment of a general inspector associated, who carries the title of police chief to the durable development, to assist the general inspector in the performance of its duties relating to the checking as regards durable development.*

*The preliminary draft of law envisages moreover creation of the Funds affected green to the financing of measures or activities which the Minister for the Environment can carry out within the framework of his functions. This funds in particular aims at supporting the realization of measurements supporting the durable development, more particularly compared to its environmental shutter, just as to allow the minister, within the framework envisaged by the law, to grant a financial support, in particular with the municipalities and the non-profit-making organizations working in the field of the environment.*

---

## **Preliminary draft of law**

### **LAW ON THE DURABLE DEVELOPMENT**

THE PARLIAMENT OF QUEBEC ISSUES WHAT FOLLOWS :

#### **TITRATE I**

GOUVERNANCE BASED ON THE DURABLE DEVELOPMENT

#### **CHAPTER I**

PRELIMINARY PROVISIONS

**1.** *The present law has the aim of founding a new framework of management within the Administration so that the exercise of its capacities and its responsibilities falls under the search for a durable development.*

*The measurements envisaged by the present law contribute more particularly to better integrating the search for a durable development, to all the levels and in all the spheres of intervention, in the policies, the programs and the actions of the Administration, ensuring the coherence of the governmental actions as regards development, like supporting the imputability of the Administration on the matter, in particular by the means of the controls exerted by the police chief with the durable development under the terms of the Law on the general inspector (L.R.Q., V-5.01 chapter).*

**2.** *In the present law, unless the context is not opposed to it, it is necessary to understand by L ' " Administration " the government, the executive Council, the Council of the treasure, the ministries, as well as the organizations and the companies of the government aimed by articles 4 and 5 of the Law on the general inspector.*

#### **CHAPTER II**

DURABLE STRATEGY OF DEVELOPMENT AND MEASUREMENTS TAKEN BY the ADMINISTRATION IN ORDER TO ENSURE The DURABLE CHARACTER OF The DEVELOPMENT

#### **SECTION I**

PRINCIPLES AND DURABLE STRATEGY OF DEVELOPMENT

**3.** *The implementation of the durable development within the Administration is based on the durable strategy of development adopted by the government and is carried out in the respect of the principles envisaged by it and the present section.*



**4.** *In order to better integrate the search for a durable development in its various spheres of intervention, the Administration, within the framework of its various actions, takes in particular into account the following principles :*

*1° "health and quality of life " : the people, the protection of their health and the improvement of their quality of life are in the center of the concerns relating to the durable development. The people are entitled to a life healthy and productive, harmonizes some with nature ;*

*2° "social equity " : the actions of development must be undertaken in a preoccupation with an equity will intra and intergénérationnelle, by taking account of the needs for the people concerned ;*

**5.** The durable strategy of development of the government exposes the vision selected, the stakes, the orientations or the axes of intervention, as well as the goals which the Administration as regards durable development must pursue. It also identifies the principles of durable development which, in more of those enumerated in article 5, must be taken into account by the Administration.

## **SECTION II**

### IMPLEMENTATION OF THE STRATEGY AND RENDERING OF ACCOUNTS

**6.** In order to center its priorities and to plan its actions so as to tend towards a durable development in conformity with the strategy of the government, each ministry, organization and company included/understood in the Administration identifies and makes public the particular goals which it intends to pursue to contribute to implementation the progressive of the strategy, as well as the activities or the interventions that it envisages to carry out for this purpose.

## **TITRATE II**

## **SECTION I**

### "FUNDS GREEN"

**"7.1.** Is instituted with the Department of the Environment the Funds green. This funds is affected with the financing of measures or activities which the minister can carry out within the framework of his functions.

This funds aims, inter alia, to support the realization of measurements supporting the durable development, more particularly compared to its environmental shutter, just as to allow the minister, within the framework envisaged by the law, to give a financial support, in particular with the municipalities and the non-profit-making organizations working in the field of the environment.

**"7.2.** The government determines the date of the beginning of the activities of this funds, its credits and its passive as well as the nature of the costs which can be charged to him.

**"7.3.** The funds is consisted of the following sums:

1° sums paid by the Minister for Finance pursuant to articles 15.5, 15.6 and 15.11;

2° gifts, legacies and other contributions poured to contribute to the realization of the objects of the funds;

3° sums paid by a minister on the appropriations allocated for this purpose by the Parliament;