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Stephen Clarkson

North America: A Trilateral, Bilateral, or Unilateral Space?

Abstract
Understood as one among a number of world regions, North America is an enigma displaying many diverse realities. Seen in its formal institutionalization by the North American Free Trade Agreement, it is considerably less than meets the eye. When examined in such governance spheres as transborder water management or the steel industry, it turns out to have considerably more substance than first meets the eye. In other cases, such as the regulation of financial services or intellectual property rights, what appears as continental policy harmonization is really a manifestation of globalization. In contrast, antiterrorist border security measures are just what they seem: US-driven inter-governmental policy coordination in which the hegemon ends up depending on the periphery's collaboration. As for determining where North America is heading, global market consolidation in the automobile industry suggests that the continent has lost its chance to become a regional regulatory space. The 2005 Security and Prosperity Partnership of North America may have renewed the three federal governments' commitment to reconciling the US priority for border security with the periphery's need for prosperity but did not give any sign that North America was an embryonic EU about to develop along the lines of the European model.

Introduction

When the editor of this volume wrote that "in January 1994, North America formally entered the club of world regions, launching the project of an integrated economic space,"[1] he was engaging in an intellectually tempting, but academically risky venture.

Depicting as part of a global phenomenon the continent that is dominated economically, demographically, culturally, and geopolitically by the United States of America is intellectually intriguing because it connects scholarship on North America with the rich vein of academic research that understands globalization as a double movement. On the one hand, it is a primarily economic and technological phenomenon in which corporations have largely escaped the regulatory reach of nation states as they expand their production and distribution to a regional scale. On the other hand, these states, which used to compete with their neighbours, are responding to globalization's challenge by forming regional groupings in order to compete at the global scale with other regional economies. In this understanding, the evolution of the European

[1] Julián Castro-Rea, "Are US business priorities driving continental integration?" *Edmonton Journal* (March 27, 2006). [Check title and date]

Community into the European Union (EU) during the second half of the 20th century is often presented as the prototype of the new "world region." In of the terminology of the regulation school, the political economy of this phenomenon is understood as a regional regime of capital accumulation being managed by a regional mode of policy regulation.[2] Placing North America in this framework is tempting because it is similar to the EU in culture (whether measured by common heritage or linked histories) and in size (whether measured by population or gross national product).

But such exercises are academically problematic, because the very act of looking at North America in the context of comparative "world regions" leads many to assume that the former is an embryonic, institutionally lighter version of the model that evolved on the eastern shores of the Atlantic Ocean. This is a daring assumption given its small membership (three compared to the EU's twenty-five member-states); given its stark asymmetries (the United States is not just overwhelmingly more powerful than its neighbours to the north and south; it is the global hegemon); and given the disparate nature of its two bilateral relationships (rich Canada has long enjoyed a relatively easy, even cozy relationship with Washington, whereas a much poorer Mexico has mostly had to manage a tense, extremely conflictual one with Uncle Sam).

It is well known that the processes forming the European Union constrained the largest power, Germany, from flexing its economic muscles and empowered the smaller members with institutions that offset their low political weight and programs that raised the poorer members to the economic level of the richer. The EU's highly complex system, which weakened the strong and strengthened the weak, derived from an ideological consensus about the need to guarantee intergovernmental peace based on a generous social-policy framework. However, if our interest is understanding the nature of North America's transborder governance, NAFTA did little to create anything in its two bilateral sets of asymmetrical, market-led relationships that resembles the extraordinary model of state-led governance established at the continental scale by the EU.

This chapter argues that the apparently descriptive phrase, "North America" actually conceals two historically separate realities whose cross-border dynamic is moving the continental model along a path that is divergent from rather than congruent with the one offered by Europe. It makes the case by distinguishing four different "realities" that constitute North American governance:
- it is less than meets the eye as far as its formal trilateral institutions are concerned
- it is more then meets the eye in certain policy areas such as border-region management and some sectors such as the steel industry
- its apparent trinational policy harmonization is not at all what meets the eye in other economic sectors such as bank regulation and the three countries' intellectual property rights regimes
- it is just what it seems when we look at the intergovernmental regulatory transformations that have taken place under Washington's insistence since September 11, 2001

In order to answer of the editor's question about North America's configuration, each section will assess the extent to which transborder governance has created trilateral, bilateral or unilateral spaces and, in the process, has augmented or reduced the continent's power asymmetries and maintained or mitigated the once stark discrepancy between the US-Mexico and US-Canada relationship.

The concluding section will pick up the hazardous challenge of trying to see in what direction continental governance is moving, whether in the market place or in its state structure.

[2] An accumulation regime can be defined by its production processes, market organization, distribution systems, and division of labour. M. Aglietta, *Theory of Capitalist Regulation* (London: New Left Books, 1979).

Formal trilateral institutionalization: less than meets the eye

If North America, whose characteristics this volume is attempting to describe, is an identifiable world region, this is thanks to two economic agreements, the first forged bilaterally between United States and its northern neighbour as the misleadingly-labeled Canada-United States Free Trade Agreement (CUFTA, which entered into force January 1, 1989), the second known as NAFTA which entered into force on January 1, 1994 when CUFTA's provisions were deepened and extended to include Mexico within the North American Free Trade Agreement.

The proposition that NAFTA is less than meets the eye does not depend on arguing that its norms, rules, and rights are inconsequential. On the contrary, these three components of what became part of each signator's "external constitution"[3] severely disciplined the practices of the two peripheral states, if not those of the hegemon.

- The extension of the national treatment (NT) norm from applying to goods (as it had under the General Agreement on Tariffs and Trade) to including foreign investment required a wholesale change of Canada's industrial-strategy policies that had previously provided incentives to domestic corporations to bolster their capacities to compete with foreign -- mainly American – companies. Applying NT to investment also nailed shut the coffin of Mexico's import substitution industrialization model, which had delivered an annual growth rate of 6 percent from World War II to the early 1980s.
- Dozens of new rules obliged Canada, for example, drastically to raise the minimum size of domestic companies whose acquisition by foreign corporations could be vetted. For its part, Mexico agreed to open up its banking sector to foreign participation according to detailed protocols.
- Important new rights were granted foreign investors who could now directly sue North American host governments from the municipal to the federal level for "expropriating" their wealth.

These norms, rules, and rights did not meet many eyes, because they were buried in the reader-unfriendly pages of CUFTA's and NAFTA's turgid texts. It was CUFTA's, then NAFTA's much-ballyhooed institutions that provided little for the eye. To be sure, NAFTA boasts an executive body, the North American Free Trade Commission (NAFTC). But however hard one might look, this commission is nowhere to be found, having no staff, no address, and no budget. Despite the substantial responsibilities for managing NAFTA's implementation conferred on it by the Agreement, it consists solely of sporadic meetings by the three countries' trade minister, secretary, or representative who have been loath to make major decisions.

Nor does NAFTA have much in the way of an administrative arm. Buried in each of the three governments' trade departments, there is a small office responsible for documenting NAFTA -elated business. NAFTA's remaining bureaucratic sinew consists of some thirty committees and working groups mandated by the Agreement's various chapters. These trinational groupings, which are in theory staffed by middle-level civil servants from each federal government, barely exist in practice.[4] As for a legislative capacity to abolish, add to, or amend NAFTA's new norms,

[3] For an elaboration of the argument that continental free trade agreements combined with the World Trade Organization comprise an external constitution for its member-states, see Stephen Clarkson, 1"Canada's External Constitution under Global Trade Governance," in Ysolde Gendreau, réd., *Dessiner la société par le droit/Mapping Society Through Law* (Les Éditions Thémis, CRDP, Université de Montréal, 2004), 1-31.
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[4] Stephen Clarkson, Sarah Davidson Ladly, Megan Merwart, and Carlton Thorne, "The Primitive Realities of Continental Governance in North America," in Edgar Grande and Louis W. Pauly, eds., *Complex*

rules, or rights -- a necessary feature of any institution which hopes to retain its relevance as conditions evolve – this "world region" has none. Changes require trilateral negotiations by the three governments.

NAFTA's only institutional feature with any substance lies in its judicial capacities. But of the half dozen different dispute settlement mechanisms, two have remained dormant (energy and financial institutions) and two are ineffectual (those of the environmental and labour cooperation commissions). The Agreement's two chief conflict resolution processes are specified in Chapter 20 and Chapter 19. Disputes between the parties over the interpretation and implementation of NAFTA's provisions were to be resolved by panels established under Chapter 20's clauses, but the panel rulings merely take the form of recommendations to the NAFTC which, in turn, can only offer suggestions to the three governments about how to proceed. When, for instance, after long delays caused by American obstructionist tactics, a NAFTA panel ruled that the US government had failed to honour its obligation to allow Mexican truckers access to its market, Washington resisted compliance for years.

Putatively binding rulings are made by panels established under Chapter 19, which replace domestic legal appeals of the antidumping or countervailing duty determinations made by individual states' trade-administrative tribunals. While useful in the majority of cases, the US government's refusal actually to comply with these rulings in such high-profile cases as the long-drawn-out softwood lumber dispute with Canada underlines the point that NAFTA's institutions enjoy strikingly little clout.

The single arbitral function with definite muscle is the investor-state dispute process established in Chapter 11, which allows NAFTA corporations to initiate an arbitration process governed by World Bank rules in order to rule on the validity of a domestic measure they claim has "expropriated" their assets. Because these rulings must be implemented by the defendant jurisdiction, they have been the cause of much dismay among nationalists who protest the derogation of domestic judicial sovereignty and among environmentalists who believe the threat of such actions prevents the regulation of corporate depredation. But because the number of Chapter 11 cases remains small and their effects limited, their overall institutional importance must be considered marginal.

In short, the transborder governance established by NAFTA's institutions is considerably less than observers had cause to expect when listening either to proponents or opponents of what President Ronald Reagan had called North America's economic constitution. Compared to Norway which, even though it is not a member of the European Union must -- with exceptions in farming, fishing, and oil exportation -- implement European Commission directives, NAFTA's institutional impact even on the two peripheral states is low.

Institutionally speaking, NAFTA does not create a trilateral space. Nevertheless, its norms, rules, and rights make the regulatory space in the two peripheral states more similar to that of the hegemon with the result that transnational corporations (TNCs) can operate more easily as continentally structured production and marketing entities in the three economies. Given that NAFTA's norms, rules, and rights were largely defined by the United States in defence of its interests in the periphery, they can be seen to have augmented US hegemonic power in the continent. Because Mexico had to make the largest changes to its political order -- for instance,

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sovereignty: Reconstituting Political Authority in the Twenty-first Century (University of Toronto Press, 2005), 168-94.

inserting an entire trade-remedy arbitral system under Chapter 19 -- NAFTA can be seen to have reduced the skewedness between the US-Canada and US-Mexico relationships.

Transborder governance that is more then meets the eye

Although NAFTA created a new North America that could be analyzed as a "world region," the old North America had long enjoyed -- or suffered from -- forms of governance that were often much more than met the eye because their institutionalization was either informal or largely invisible. Out of many possible cases, this section will consider one, water management, which pre-existed NAFTA by a century and another, the steel industry, for which NAFTA had unanticipated consequences.

<u>Water</u>

Some forms of North American transborder governance developed through processes that took place in a zone of decision-making and consultation that transcended one of the international boundaries. From the 19th century on, concerns about the exploitation and oversight of North America's transboundary water resources gave rise to several treaties and corresponding binational institutions established to manage the flow, level, and quality of water in the lakes and rivers bisected by the US-Canadian and US-Mexican borders. While the International Joint Commission (IJC), which was set up in 1909 thanks to the Boundary Water Treaty of that year, is well known, the actual management – often mismanagement -- of water matters on both borders is carried out by hundreds of collaborative arrangements involving agencies, business corporations, scientists, and environmentalist groups concerned about their local or regional eco-systems.

The legal basis for co-operative governance of the Tijuana River Basin lies in the 1944 United States - Mexico Treaty Relating to the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande. The 1944 Treaty substantially expanded the powers and changed the name of the existing boundary institution from the International Boundary Commission to the International Boundary Water Commission composed of two national sections of which the Mexican section is called the "Comisión Internacional de Límites y Agua" (CILA). The roles and responsibilities of the CILA and the IJC are quite different due to the hydrological and socio-economic features of the respective border regions, the southern suffering from much greater water scarcity than the northern and Mexican border infrastructure being so much poorer than Canadian.

North America's water governance is a vast and multi-layered regime of national and international institutions, legal frameworks, and interacting social and economic values which, according to circumstance, converge and diverge in an irregular and unpredictable fashion.[5] Given the high levels of social and economic integration in the zones along the US-Canada and US-Mexico borders, the management of water resources presents a highly complex dynamic between different levels of government and public participation in political processes, which are not necessarily evolving in the direction of transborder integration.

Under the George W. Bush administration's general hostility to international law, the US government has been resisting recognition of the International Joint Commission's mandate for supervision over such major problems as the ecosystem-threatening diversion of Devil's Lake into the Red River watershed and the withdrawal of Great Lakes water through Illinois. Although

[5] Christiane Buie, "Does North American Transboundary Water 'Governance' Exist?" Paper presented to the Canadian Political Science Association, June 2, 2005.

water management in the US-Mexico border region is developing patterns of cooperation among non-governmental organizations that belie the highly visible political conflicts between over undocumented Mexican immigrants, transborder North American water governance remains separated into two bilateral spaces. Although their hydraulic geography is so different and their economic character is so disparate, the increased environmental pressures caused by the maquila industrialization in the northern Mexican states has caused border governance patterns to resemble those along the Canadian border because of their cross-border involvement of government, market, and civil society at various levels. At the same time, water governance reduces the power asymmetry between hegemon and periphery because the former depends on the latter to implement agreements once they have been negotiated.

Steel

With NAFTA's explicit aim to enhance continental economic integration, we should find evidence of continental governance in the marketplace. Beyond the powerful intervention of corporate actors in lobbying during the negotiation of the free-trade agreements,[6] a few economic sectors provide evidence of governance with a continent-wide substance. Steel provides a fascinating case in point.

In spite of the fact that, as traditional heavy industry, steel provides the backbone of the old manufacturing economy, it did not do well under NAFTA, which failed to eliminate the protectionist anti-dumping, safeguard, and countervailing-duty measures with which the U.S. steel industry had long been harassing the exports into its market of their more efficient competitors from the North. When, in their frustration, the Canadian firms invested heavily in the United States, they produced a phenomenon similar to the "Toyotafication" created when US restrictions on Japanese car imports caused firms such as Toyota and Honda to set up manufacturing operations within the United States.

But instead of retaining their own identity and lobbying as Canadian firms for their national sector's interests, the American subsidiaries of Canadian companies became active as U.S. members of such industry associations as the American Iron and Steel Institute. As AISI players in good standing within the U.S. economy, they proceeded to lobby -- along with the U.S. steelworkers' union, which had fortuitously been run for a decade by Canadian presidents -- to exempt Canada (and also Mexico) from the Bush administration's safeguard duties imposed on foreign steel imports. This collaborative action suggested that, in the steel sector, a single governance space was developing in which Canadian, and later Mexican, firms have partially "Americanized" themselves within the U.S. economy, rather than create a continent-wide industry containing nationally competitive elements.

Symptomatic of this trilateralism is the creation of an instrument of trinational governance, the North American Steel Trade Committee. NASTC involves the three governments with their respective industry associations in order to develop common North American policy positions at the OECD and the World Trade Organization. Although the steel sector in North America became more of a unilateral space in which US hegemonic control increased -- witness the peripheral states' inability to overcome the US Congress' protectionist mandate, the skewed quality of the two bilateral relationships also increased because the Canadian industry was so much better positioned to participate in the US economy than was its Mexican counterpart, which

[6] Erick Lachapelle, "Business' Role in North American Governance: Free Trade, 'Smart Borders' and other 'Big Ideas'," Paper presented to the annual meeting of the Canadian Political Science Association, June 2, 2005.

-- having flourished under import substitution industrialization -- was seriously weakened by the lifting of government protection in the 1980s.

Trinational policy harmonization: not at all what meets the eye

Although the North American steel industry showed distinct world-region signs, other economic sectors where harmonization has increased are not necessarily evidence of continentalization. Take for instance the regulation of two sectors: intellectual property rights for the pharmaceutical industry and rules for financial services.

Intellectual property rights for pharmaceuticals

Because NAFTA was negotiated just before GATT's Uruguay Round reached its successful conclusion, the creation of the World Trade Organization in 1995 presents many analytical complications for students of North American governance. The question of intellectual property rights (IPRs) provides an illuminating example, because the United States has aggressively insisted that its position on intellectual property rights be accepted as a condition for its trade relations with its interlocutors.

The strengthening of IPRs for branded drugs has also been driven by European pharmaceutical TNCs, which have also been battling against domestic legislation protecting the production of cheaper generic drug in every country so that Big Pharma could obtain longer periods of monopoly protection so it could extract greater economic rents from its brands. In this process, the then Prime Minister Brian Mulroney did not wait for the trade negotiations to redefine IPRs but pre-emptively adjusted Canada's laws, which had favoured the generic firms, in order to comply with U.S. demands. Subsequently, the United States and the EU had their positions favouring longer patent protection for branded drugs accepted at the WTO. This forced Mexico to follow suit and adopt the new global rules as well.

Even if the IPRs in NAFTA's Chapter 17 are virtually identical to those in the WTO's Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement, the fact that Washington used the WTO's dispute settlement body, rather than NAFTA's, as its legal venue for pressing Canada to make more concessions to U.S. branded drug companies suggests that weak continental judicial governance has been trumped by the stronger judicial governance established at the global level. For their part, the EU's pharmaceutical firms have used the WTO's dispute settlement process to force Canada and Mexico to provide longer protection than they had been willing to concede. This case shows how global governance has displaced continental governance.

While the transborder governance for the pharmaceutical industry is different from what we would expect if North America were a genuinely trilateral space, the power implications in this sector are similar to changes in other sectors. New IPRs increase hegemonification through the expanded agency of US pharmaceutical TNCs in the two peripheral economies. At the same time, the transformation of Mexico's property rights regime tends to eliminate its discrepancy with that of Canada and so reduces the skewed quality of the US-Canada and US Mexico relationship.

Financial services

Banking offers a confused picture, because North America is not a natural zone for transnational banking. Some Canadian banks have operated for decades throughout the hemisphere and to a lesser extent globally, while all of them already had branches in the US market well before trade liberalization. For their part, US banks had also set up shop in Canada long before free trade. Notwithstanding their geographical proximity, it was not American but British banks that predominated among foreign-owned financial services in Canada whose retail banking system remains primarily in Canadian hands.

With a much less robust set of banks, which had been nationalized in 1982 following one of the country's periodic currency crises, Mexico has found itself at the receiving end of transnationalized banking. NAFTA had required it to open specified portions of its re-privatized banks to foreign ownership according to a defined schedule, but, in the shock of the 1995 peso crisis, the IMF, World Bank, and the US Treasury used their financial bailout to force Mexico to go all the way. After a blizzard of foreign banks merging and associating themselves with domestic partners, Mexicans found that all but one of their banks had fallen under foreign ownership, with Spanish capital taking a larger share than American.

Although harmonization of the three banking sectors' regulations has occurred within North America, this is not due to any transborder governance created by NAFTA. Rather, this apparent continentalization actually reflects the three countries' participation in global governance. If banking regulations in the United States, Mexico, and Canada are becoming more similar, this is because the three central banks' participate in the monthly meetings of the Bank of International Settlements in Basel. It is the multilaterally negotiated norms that are negotiated in Switzerland that are then applied at home. Instead of banking regulations showing that North America is a "world region," they indicate that the three countries of North America are simply part of a global mode of regulation for a global system of accumulation.

Because these norms are negotiated in an international forum where US power is offset by that of Europe and Asia, the effect in North America is to reduce US hegemonic control over the periphery in financial services. Similarly, because banking regulations are tending to harmonize, the regulatory discrepancy between the Canadian and Mexican banking has declined. The implications of this regulatory reality is that North America's banking space is less trilateral, bilateral, or unilateral than it is global.

North America as a security zone : just what it seems

The radical shift in the United States provoked by the terrorist coup in New York and Washington instantly affected the nature of North America as a world region. The economic integration fostered by NAFTA had been reducing the government-made economic barriers along the United States' two territorial borders in order to allow the marketplace freer rein to enhance human and economic flows across the continent. Throughout the 1990s, the growth in cross-border traffic in goods and people had generated increased attention to border governance issues, as business coalitions, which were concerned about the efficiency of their continent-wide production systems, lobbied their governments to make the increased investments in the transportation infrastructure and security technology needed to create a near-borderless continent. President Clinton had signed agreements with Ottawa to improve border security management, but his administration had not taken significant actions in this direction. "9/11" led to to intergovernmental shifts both in security and in defence.

<u>Security</u>

Washington's sudden move to a security paradigm was dramatized for North America on September 11 by its immediate blockade of its two land borders. This unilateral action demonstrated that, once Washington declared its national security to be at stake, it would simply reassert its control over the policy space it had previously vacated in the name of trade liberalization. Its subsequent demands that Canada and Mexico do what it felt was necessary to make their exports safe for the United States showed how much of North American governance was unilaterally driven by Uncle Sam.

In the post-September-11th handling of U.S. domestic security, traditional binational relations reasserted themselves over unilateralism, Uncle Sam dealing with each periphery on its own. These intergovernmental negotiations were supplemented on the Canadian side by unusually active business-coalition involvement in the design of new security systems, a new intensity of governance impinging on the traditional, government-to-government bilateralism. In this first phase of the US domestic war on terror, a detailed, thirty-point US-Canada Smart Border agreement was signed in Ottawa in December 2001. By March 2002, Washington had negotiated a parallel twenty-two-point Smart Border agreement with Mexico City.

That this process was driven by US pressure on its neighbours suggests that the result was to increase US control over Mexico and Canada. But because Washington depended on Ottawa and Mexico City to implement the measures that had been agreed upon, the United States depended on its two neighbours for its security. Hence, the power asymmetry between the Centre and its periphery diminished.

The fact that the US Canada border agreement had provided Washington with a template for its arrangement with Mexico also suggests that this process diminished the disparity between Ottawa's relationship with Washington and Mexico City's. Although the narco-traffic and immigration problems were far more intense along its southern then its northern border, Congress pushed the Administration to adopt common policies towards biometric identity cards for all persons crossing US borders. For its part, the Administration's support for universal technological solutions to the passage of low-risk merchandise across the border and through its ports of entry further reduced the disparity between the two countries' responses to Washington.

The new dynamics of continental security also helped nourish the third North American bilateral relationship that had developed between Mexico and Canada ever since Canada had joined the US-Mexico negotiations which led to NAFTA. This third bilateral was given a major boost during the anxious months leading up to President Bush's declaration of war against Iraq, when Jean Chrétien developed an oppositional axis with Vicente Fox in an effort to block the impending invasion by generating a new consensus at the United Nations.

<u>Defence</u>

in contrast, an absence of Canadian-Mexican dialogue characterized each country's response to Northern Command, the Pentagon's re-organization of its command structure for North American defence. In responding to Northern Command, Ottawa had to decide how far it would follow the NORAD model of actually integrating its armed forces while retaining nominal autonomy. In an apparent move towards complete integration, it reorganized its armed forces into a Canada Command but did not move beyond participating in a binational military planning group whose mandate was to discuss extending bilateral military integration from the two air forces to their army and navy.

Nor did the Chrétien government resolve how to respond to the United States' pressure to support its Ballistic Missile Defence program, whose technological integrity was suspect and whose strategic rationale violated Canada's well-established stance against the weaponization of space. In the end, partisan political calculations in 2005 forced Prime Minister Paul Martin to refuse Canada's endorsement for BMD, while ideological proclivity to support the United States subsequently pushed Prime Minister Stephen Harper and in the opposite direction.

Just as Canada reverted to its Cold War intimacy with the Pentagon upon the declaration of the new US global war, Mexico reverted to its Cold War estrangement. Far from ingratiating itself with Washington by sending support to Afghanistan, Mexico withheld even moral support and reaffirmed its long tradition of non-intervention beyond its frontiers. Although the Mexican navy was comfortable about cooperating with the US Navy on security exercises in the Gulf of Mexico, there was no possibility that the Mexican military could be prevailed upon to collaborate with the U.S. Army beyond the kind of disaster relief that it probably supplied in 2005 in the wake of Hurricane Katrina. While sending a Mexican military observer to bilateral US-Canadian meetings at NORAD was seen to be a major step forward, the significance attributed to this gesture underlined the enormous discrepancy that persisted between the two bilateral relationships in North America's defence sector.

Whither North America: in what direction is continental governance moving?

Following the argument so far, the reader will have seen that, as a "world region," the North America created by NAFTA does not add up to much in institutional terms. While border-region water management and the continental steel industry provide examples of significant transborder governance, other domains such as intellectual property rights and financial services show that what appears to be regulatory harmonization is often a manifestation of the United States, Canada, and Mexico participating in global governance. A third North American reality, which has become particularly evident since Washington declared its global war on terrorism are the largely bilateral intergovernmental US-led relations focusing on border security and regional defence The difficulty in aggregating these diverse realities into an overall portrait of the continent is exacerbated by our desire to divine in which direction it is moving. Is North America becoming a more trilateral space as opposed to remaining primarily bilateral? Or is it -- deep down – increasingly defined by US unilateralism? This concluding section will extrapolate from trends observable in 2006 concerning both North America's inter-state relations and its marketplace.

<u>Towards a Continental State?</u>

If the first securitization phase following September 2001 showed North America as a more bilateral and hegemonified -- while more symmetrical -- space, the proclamation of a Security and Prosperity Partnership for North America (SPP) by the three governments' leaders following their trinational summit in March 2005 in Waco Texas appeared to herald a shift to a more trilateral continent. Nationalist critics in the periphery feared SPP was a manoeuvre through which the executives in Canada and Mexico were advancing their agenda stealthily to integrate their political systems with the hegemon's. Corporate leaders in the three countries, who aspire to operate in a borderless North America, criticized SPP as a mere wish list of low-profile bureaucratic initiatives whose implementation will do nothing to engage with such major challenges facing the continent as a common currency, a customs union, a security perimeter, or even a fully integrated energy market.

The original breakthrough which led to the SPP apparently occurred in 2003 in the US National Security Council (NSC), where reason (the practical need to improve security for a United States economically integrated with its two neighbours) prevailed over passion (anger with Canada and Mexico for not supporting the US war against Iraq).[7] The project's long gestation in the three capitals -- necessitated, in part, by waiting for the 2004 US presidential election results -- was followed by three intensive months of trilateral inter-bureaucratic exchanges which produced for a ministerial meeting in Ottawa in June 2005, a large trilingual document outlining some 300 specific issue areas to be negotiated and implemented by government officials within clearly defined time lines.

As seen from the Mexican presidency ("Los Pinos"), the Americans' security imperative needed to be accepted as the paradigm within which the continental periphery had to operate. Since the NSC was acknowledging that tightened US antiterrorist border security should not jeopardize US economic prosperity, SPP presented Mexico with an opportunity to resolve many irritating problems in the bilateral economic relationship and so move NAFTA incrementally towards its grander vision of a EU-type regional governance. The trade-off was to exchange full cooperation with US demands on security matters for getting inside the US policy loop in order to negotiate the regulatory corollaries that applied to trade.

Thus, when the US Congress passed a tough bioterrorism law and outraged Mexican legislators called for retaliatory action to block imports of US goods at their northern border, Los Pinos decided that the better part of valour was compliance. Faced with the tough new US requirements, President Vicente Fox's officials worked intensively with Mexican food exporters' associations to help them adapt their members' certification and packaging to conform with Washington's new specifications. This effort climaxed in December 2005, when the bioterrorism law came into effect and no Mexican produce was blocked at the border for non-compliance.

If SPP negotiations could produce certification standards governing Mexican foodstuffs, then such Mexican products as avocados would no longer be vulnerable to unilateral rulings by the US Food and Drug Administration. This would give Mexico's agricultural exporters a vital competitive advantage over their rivals in Latin America, Asia, and even Europe. Facilitating the documentation for transborder flights of private aircraft was a far cry from a Big Idea for North America,[8] but implementing myriad incremental changes would lead implicitly towards that objective.

The indication that SPP was a program with political legs could be deduced from the fact that civil servants in Ottawa also claimed credit for conceptualizing and boosting the initiative. Nurtured by research contracts and policy conferences sponsored by the Policy Research Initiative of the federal government's Privy Council Office, regulatory harmonization had already become a battle cry within Paul Martin's government. Stephen Harper's presence at the trilateral summit in Cancún in March, 2006 to celebrate the first anniversary of SPP was a signal that his Conservative government had appropriated this Liberal initiative as its own.

While the bulk of SPP's proposed measures dealt with either the US-Canada or the US-Mexico relationship, the informal telephone and e-mail communications among the bureaucrats who had

[7] This section is based on half a dozen meetings held in the Mexican Presidency in February and March 2006 and another half dozen in the US Department of Commerce and National Security Council in Washington, DC in April.

[8] The "Big Idea" for an EU-style institutionalization of a borderless North America in a grand NAFTA Plus vision was suggested in Canada by Wendy Dobson for Toronto's CD Howe Institute [ ] leaning on work done for Washington's Institute for International Economics by Robert Pastor [ ]. Pastor had already sold the analysis to the Mexican political scientist Jorge Castañeda who, in turn, had persuaded Vicente Fox to adopt a version of the scheme for his successful 2000 election campaign for the Mexican presidency.

put them together suggested that some significant trilateral space had been created in the process. Although the Security side of SPP reaffirmed Washington's dominance in the continent, the Prosperity issues seemed to promise some autonomy for the periphery. "Regulatory harmonization" might conjure up images of Mexico and Canada simply having to adopt US standards, but the complexities and differences between each country's multi-level governmental system implied that this nightmare was unlikely to be realized within anyone's lifetime. Issues would have to be worked out pragmatically. In some cases, the American officials would still be getting their Mexican counterparts the familiar "do it our way or you're product will not cross our border" message. In others, a practical problem would have to be worked out by all parties having to resolve their problems cooperatively.

As for whether SPP's many small measures would lead ineluctably to the implementation of a Big Idea, passionate resistance within the US government to creating continental institutions made this scenario unlikely. Even though the three countries' executives were marching in step on this initiative, which merely engages the upper-middle ranks of their bureaucracies, the three governments pay virtually no attention to each other's interests when negotiating new trade agreements with other countries and have shown little sign -- apart from the one exception of developing a common position on steel policy -- of moving towards a common position on international economic policy.

In contrast, the crucial automobile and textile industries are showing signs that North America is losing its potential to be a regional regime of accumulation for which it needs a counterpart regional mode of regulation.

Towards a Continental Marketplace?

If NAFTA produced winners, these were surely the US auto and textile sectors which had managed to obtain rules of origin which gave them protection -- at least for a time -- against their Asian and European competitors.

Automobiles

The culmination of many years of US automotive TNCs' lobbying, NAFTA was thought to have set up a fully integrated system of production for those manufacturers -- principally the Detroit Three -- which could meet its protectionist rules of origin requirements. However, significant impediments remained, and the trilateral working groups created to negotiate continental safety and emissions standards proved incapable of producing the trilateral regulatory harmonization necessary for fully integrated continental production.

Meanwhile, transcontinental corporate consolidation through mergers and equity linkages, which had left but six automotive groups accounting for 80 percent of world production, was developing a regime of accumulation which was truly global and was accordingly generating pressures to create a globally harmonized system of regulation for the automotive industry. Global competition has reduced US TNCs' oligopolistic dominance in the continent. At the same time, continuing foreign auto and auto-parts investment in both Ontario (which benefits from socializing the cost of medical care and provides an excellent transportation system) and Mexico (which offers well-trained labour power at a small fraction of US wages) has reduced the disparity between the two peripheries' car economies. This continental industrial space has become largely trilateral, even if Fortress America now presents an open door to the world.

Textiles

NAFTA's rules of origin also appeared to succeed in connecting the three countries' disparate textile and apparel industries in a common North American production system, in which the interests of US firms combined more intimately with burgeoning Mexican firms than they did with shrinking Canadian companies. This initial trilateral matrimony developed greater asymmetries as NAFTA-generated continental market governance collapsed in the face of two exogenous adversities -- the expiry of the Multi-Fibre Agreement (which had allowed industrialized countries to impose draconian quantitative limitations on apparel imports from the Third World) and China's emergence as the dominant supplier to the North American market.

Continental governance in a severely shaken textile and apparel industry still follows a hub-and-spoke model, with US industry responding unilaterally to its challenges, a battered Mexican industry retreating to the informal economy while supporting Washington's endeavours, and a hollowed out Canadian sector sitting on the sidelines.

In sum, as one among a number of world regions, North America is an enigma displaying many diverse realities. Seen in its formal institutionalization by NAFTA, it is considerably less than meets the eye. Looking at such governance spheres as transborder water management or the steel industry, shows it to have considerably more substance than first meets the eye. By contrast, apparently continental policy harmonization such as the regulation of financial services or intellectual property rights is really a manifestation of globalization, while antiterrorist border security measures are just what they seem: US-driven inter-governmental policy coordination in which the hegemon ends up depending on the periphery's collaboration. Global market consolidation in the automobile industry suggests that the continent has lost its chance to become a regional regulatory space. The 2005 Security and Prosperity Partnership of North America may have renewed the three federal governments' commitment to reconciling the US priority for border security with the periphery's need for prosperity but did not give any sign that North America was about to sign on to any grander institutional project.

As a world region, North America clearly has multiple identities. We can agree that -- depending on the viewer's angle -- it can be alternately a unilateral, bilateral, trilateral, and global space. We can also see what it is not -- an embryonic EU destined to develop along the lines of the European model in which asymmetries diminish and solidarities emerge. The political disparities between Mexico and Canada may be diminishing, but in most governance dimensions the hegemon is becoming more dominant vis-à-vis its periphery. Small signs of trinational governance have appeared, but, when seen in the broader context of global governance trends, these are not enough to have reconstructed "North America" as a primary regulatory space.