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## Canada

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# IMPLEMENTATION:

## *Canada*

### ***I. Introduction***

The North American Free Trade Agreement (NAFTA) was negotiated while the Progressive Conservative Party controlled the Canadian government. The bill approving NAFTA passed the House of Commons on May, 27, 1993. On June 27, 1993, the bill was passed by the Senate and then granted royal assent. The royal assent made the bill an Act of Parliament, but Canadian law required that both the United States and Mexico pass laws implementing NAFTA before the act could be proclaimed into law.

The Liberal Party was critical of the results of the NAFTA negotiations and desired rules in NAFTA that improved upon the problems that had been experienced under the Free Trade Agreement (FTA) in effect between Canada and the United States since 1989. The Liberals desired to delay the enactment of the NAFTA and promised that if they were successful in the fall elections they would renegotiate certain sections of the treaty before proclaiming it into law. The elections were held on October 25, 1993 and the Liberals won a majority in Parliament. Jean Chretien became the new Prime Minister and he immediately renewed the Liberals' promise to renegotiate NAFTA.

The first item of promised renegotiations involved access to Canadian energy supplies. Chretien and the Liberals desired the same favorable treatment of their energy industry as Mexico received under NAFTA. As negotiated and eventually enacted, NAFTA gives U.S. and Canadian consumers equal access to Canada's energy resources in times of shortage. Chretien and the Liberals also desired clearer definitions of what constituted a subsidy and what constituted dumping under NAFTA. These were problems that Canada had experienced under the FTA with the United States. Related to these problems with defining subsidies and dumping, the Liberals desired a better dispute resolution process under NAFTA than had existed under the FTA. Ever since the enactment of the FTA, Canada and the United States had experienced trade wars which were perceived to be more harmful to Canada than to the United States. A better dispute resolution process was desired to create a more level playing field.

Soon after the elections, environmentalists brought another issue to Chretien's attention: the treatment of Canadian bulk water supplies. Canada desired an agreement that would make it clear that Canada would not be forced to export bulk water to the United States and Mexico. After experiencing limited progress on these issues through negotiations between newly named trade minister Roy MacLaren and U.S. trade negotiator Mickey Kantor, Chretien announced on December 2, 1992 that he was willing to proclaim NAFTA into law.

The success that Canada had in addressing these issues and the progress made on these issues to date is discussed in the following sections of this Canadian implementation update. Also discussed is Canadian approval of two pacts designed to allow Canada to take full advantage of the side agreements made on labor and the environment between the contracting nations to NAFTA. This legislation is designed to address some of the limitations that Canada's internal political structure places on the federal government in benefit-

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ting from the provisions of treaties made with other nations. Also discussed in the section on the proposed pact with the provinces are other problems that Canada is experiencing with the provinces with regard to NAFTA. This update concludes with a summary of the direction that Canada now desires the NAFTA agreement to take.

## ***II. Energy***

The clearest inability for Canada in its attempted renegotiation of NAFTA was its failure to secure a trilateral agreement on the treatment of Canada's energy resources. Under NAFTA, Mexico received special protection of its energy resources, protection that the new Liberal government of Canada desired. After failing to obtain a trilateral agreement, the Canadian government was forced instead to issue a declaration stating its interpretation of the energy provisions of NAFTA. While stating that Canada would remain a reliable supplier of energy, the declaration notes that in the event of shortages or in the need to conserve resources, Canada, in its interpretation and application of NAFTA, will seek to protect its energy security:

The government interprets the NAFTA as not requiring any Canadian to export a given level or proportion of any energy resource to another NAFTA country. The government will keep Canada's long-term energy security under review and will take any measures it deems necessary to the future energy security of Canadians, including the establishment of strategic reserves, or incentives for oil and gas exploration, development and related activities in order to maintain the reserve base for these energy resources.

The Office of the U.S. Trade Representative (USTR) issued a statement that implies that the United States interprets the NAFTA energy provisions differently. The USTR states that the energy provisions are clear and that the United States expects all of the members of NAFTA to act according to their prescribed obligations. Although representatives of the Canadian oil industry were satisfied with the results (or lack thereof) by the Canadian government on energy, members of the opposition parties in Canada were critical of the Liberals failure to keep their campaign promises.

To date Canada has not attempted to reduce or restrict its exportation of energy resources to the members of NAFTA. However, its declaration in regard to the energy provisions sends a signal that it may do so should a crisis develop. Canada's best interest in the event of an energy crisis would probably conflict with the best interests of other NAFTA countries, especially the United States. The statement of the USTR indicates that the United States would most likely attempt to force Canada to export in the event that Canada attempted to withhold energy resources. The lack of compatible interpretations of the energy provisions leaves a conflict in the making should an energy crisis develop.

## ***III. Subsidies, Antidumping, and Dispute Resolution***

The promises of the Liberal Party to clear up the rules on subsidies and antidumping and to improve dispute resolution are intertwined. Therefore it is useful to discuss them under one heading. Canada had experienced problems in all of these areas under the FTA with

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the United States and there was a desire to take the opportunity in NAFTA to clarify and improve the provisions in these areas.

Dumping occurs when the supply of a product exceeds domestic demand and the surplus is exported or "dumped" onto markets at below-cost prices so that other suppliers cannot compete. Dumping regulations have become a major part of trade negotiations. In the NAFTA, the dispute settlement provision for dumping and countervailing duties, like the general dispute settlement provision, is firmly grounded in the FTA between the United States and Canada.<sup>1</sup> The countervailing and antidumping dispute settlement provision in Chapter 19 of the NAFTA provides for review of final antidumping and countervailing cases by a binational panel rather than domestic courts.<sup>2</sup> The decision of the panel is binding on the parties concerned and is directly applicable to the domestic laws of the countries concerned. Review of the panel decision is prohibited. As under the FTA, parties may not resort to the General Agreement on Tariffs and Trade (GATT) to resolve their difficulties.<sup>3</sup> Any party may request panel review if there is some doubt whether or not the country's antidumping or countervailing duties complied with its domestic laws. The term "party" encompasses both private individuals and corporations.<sup>4</sup>

Although the NAFTA addresses countervailing duties and antidumping, its definition of dumping is so broad that it enables any of the three contracting nations to retaliate against another for supposed violations even if no action is warranted.<sup>5</sup> The fact that this provision has been left standing and that little negotiation has taken place is a source of controversy with respect to NAFTA. Canada signed the NAFTA with the understanding that the countries would later agree to rules governing subsidies and antidumping.<sup>6</sup> NAFTA working groups on subsidies and antidumping duties were established. After Canada expressed concern over the lack of clear definitions of subsidies and dumping. The working groups are to make their recommendations by December 31, 1995.<sup>7</sup> In addition, the NAFTA countries have agreed to use the Uruguay Round of the GATT agreement to address common concerns on subsidies, dumping, and the use of trade remedy laws.<sup>8</sup>

Without the agreements on subsidies and antidumping, Canadian-based companies cannot be assured of unfettered access to the lucrative United States market which was promised in the original United States-Canada Free Trade Agreement.<sup>9</sup> In addition, the

1. North American Free Trade Agreement, Texts of Agreement, Implementing Bill, Statement of Administrative Action, and Required Supporting Statements, H.R. Doc. No. 153, 103d Cong., 1st Sess. ch. 19 (1993) [*hereinafter* NAFTA].
2. NAFTA, *supra* note 1, art. 1904:1 (1993).
3. Kristin L. Oelstrom, *A treaty for the future: the dispute settlement mechanisms of the NAFTA*, Law and Policy in International Business, January, 1994 at 83.
4. Oelstrom, *supra* note 3, at 83.
5. Adams, *supra* note 1, at D5.
6. Julian Beltrame, *Canada warns U.S. of trade 'chill'*, Calgary Herald, May 25, 1994 at C4.
7. USTR seeks input on how to improve NAFTA dispute settlement, *Roh says*, International Trade Reporter, June 15, 1994, at 944.
8. *Canadian government to implement NAFTA after receiving assurances on concerns*, International Trade Reporter, December 8, 1993, at 2051 [*hereinafter* Canadian].
9. Shawn McCarthy, *Liberals struggle to save key part of free trade deal but talks with U.S. unlikely to produce gains*, Toronto Star, July 22, 1994, at E1.

United States appears to be about to take a giant step backwards. As part of legislation to implement a new global free trade agreement, Congress is proposing to amend countervailing and antidumping rules to make it easier for American firms to sue foreign competitors accused of unfair trading.<sup>10</sup>

Canada and the United States have already been engaged in many disputes over countervailing and antidumping laws. One such dispute, the *Softwood Lumber* case, was commenced under the FTA and handled by the FTA dispute process. The United States first imposed a countervailing duty on Canadian lumber exports, and then brought a grievance which in essence stated that Canadian softwood lumber exports were causing injury to the United States lumber industry. A United States-Canada panel, as provided for under the FTA, found that the Commerce Department "totally ignored" evidence, "thoroughly misunderstood" analysis and advanced "illogical" arguments in ruling that the United States border tax did not comply with the FTA.<sup>11</sup> The panel ordered the United States to lift its duties on Canadian lumber.

The United States then issued an "extraordinary challenge" to the bi-national panel decision. The United States claimed that two of the three Canadian panel members had potential conflicts of interests in that they worked for law firms that had represented the Canadian government in the past.<sup>12</sup> This tactic was unsuccessful and the United States was again ordered to lift its duties on Canadian lumber.

Some Americans found the ruling disturbing because they believed that both the binational panel and the extraordinary committee members had voted along national lines. However, there is no discernable evidence of voting along national lines in the body of decided cases.<sup>13</sup>

Wheat is another commodity of dispute between the United States and Canada. The United States has accused Canada of dumping wheat on the United States market. Canadian Trade Minister MacLaren accounts for the thirty-six percent increase in wheat exports to the United States by pointing to the fact that Washington has encouraged American farmers to export wheat, thus creating a scarcity in the United States that Canadian exports fulfilled.<sup>14</sup> Nonetheless, the United States announced plans to impose tariffs on Canadian wheat imports under GATT. The United States was also suspicious that Canada was undercutting Argentine exports by dumping wheat in Brazil. Additionally, Canada has also been accused of dumping wheat in Mexico. United States Agriculture Secretary Mike Espy argues that Canada has subsidized its wheat sales to Mexico so effectively that it has resulted in a thirty percent drop in United States sales there.<sup>15</sup> Canada has responded to these allegations by stating that Mexico and Brazil choose Canadian exports because of their high quality. Canada has stated that if the United States chooses to

10. McCarthy, *supra* note 9, at E1.

11. *The great American free trade fraud*, Toronto Star, July 10, 1994, at F2 [*hereinafter* American].

12. American, *supra* note 11, at F2.

13. *Dispute settlement mechanism seen as failing to defuse U.S.-Canada conflicts*, International Trade Reporter, September 28, 1994, at 1504 [*hereinafter* Dispute].

14. Beltrame, *supra* note 6, at C4.

15. Jeff Adams, *Dumping claims rattle NAFTA*, Calgary Herald, June 16, 1994, at D5. The article quotes U.S. trade lawyer Kenneth Schwartz.

increase tariffs on Canadian exports, Canada will increase its tariffs on products of similar value.<sup>16</sup>

On August 1, 1994, the wheat dispute came to an end as the parties agreed that Canadian wheat imports into the United States would be limited for a one year period. In return, the United States agreed to withdraw its proceedings under GATT against Canada. In Canada the agreement was criticized by agricultural leaders and opponents to the Liberals alike. Many felt that Canada backed down from a legitimate fight with the United States over wheat in return for the maintenance of other agricultural access to the United States markets free from U.S. harassment. In commenting on this apparent abuse of the dispute process by the United States, former Canadian trade negotiator Gordon Ritchie explained, "We need access to their markets a lot more than they need access to ours."<sup>17</sup>

As for the United States, after a string of losses in dispute panels over issues such as softwood lumber and the prolonged stalemate over wheat, some members of Congress are attempting to redefine the United States' definition of a subsidy, since the binational panels can only rule on whether one nation has applied its own laws fairly.<sup>18</sup> Congress may try to water down legislation so that it will be able to apply United States laws on exports much more broadly, thereby giving the United States greater leverage in trade.

This fear of increased leverage has led the Canadian government to continually press for talks aimed at clarifying subsidy and dumping rules. These talks were originally conducted as part of the 1989 United States-Canada free trade deal, but were unsuccessful. Many in the Canadian government feel the United States Congress is throwing roadblocks in the way of talks. They cite the fact that Congress has always been reluctant to give up any clout on trade remedy rules because these rules represent a key stick for individual members of Congress to wave on behalf of their constituents.<sup>19</sup>

Canadian International Trade Minister MacLaren has gone as far as claiming that in at least some cases, antidumping laws have no logical function. In a speech to the American Iron and Steel Institute's policy and planning committee, MacLaren explained that the integration of markets in the United States and Canada may make future antidumping measures irrelevant. MacLaren questioned whether antidumping laws are consistent with the new North American market environment, in which pricing behavior is less likely to depend on the country in which the firm is based.<sup>20</sup> In an integrated North American market where firms have rationalized production on a North American basis, the concept of a national industry may no longer be viable.<sup>21</sup> In the steel sector, for example, the North American market is not only shared, but it is also the least subsidized and most open market in the world.<sup>22</sup> In that context, both government and industry in Canada consider trade remedy

16. Beltrame, *supra* note 6, at C4.

17. *Some Canadian Groups Score Settlements of U.S. Wheat Dispute*, 11 I.T.R., p. 1240 (Aug. 10, 1994).

18. McCarthy, *supra* note 9, at E1.

19. McCarthy, *supra* note 9, at E1.

20. *U.S.-Canadian market integration may obviate need for dumping law*, Inside NAFTA, July 20, 1994, at 1131.

21. Roy MacLaren, *An Address to the American Iron and Steel Institute's policy and planning committee (1994)*, reprinted in Inside NAFTA, July 20, 1994 at 1131 [*hereinafter* MacLaren].

22. MacLaren, *supra* note 21, at 1131.

actions by any of the signatories to the NAFTA against steel imports as countries "counter-productive" and against commercial sense.<sup>23</sup> MacLaren explained that it may be possible to develop trade remedy processes that establish a more direct link between the pricing practices of one firm and the impact on others. Factors to be considered included whether the firm's pricing behavior affected the other firms' pricing behavior, how long the effect lasts, and how the firms or the market in which they operate compensate for the change.<sup>24</sup>

The loophole left by the NAFTA by the broad definitions of dumping raises concerns that a substantial number of disputes may arise because the rules are incomplete. The United States and Canada have already been embroiled in battles over soft lumber, beer, and most recently wheat. The antidumping and countervailing portions of the NAFTA need to be clarified so that future disputes may be avoided. While it is true that Canadian International Trade Minister MacLaren believes that market integration may obviate the need for dumping laws, it is still necessary to clarify the law and set what recourse can be had. With millions of dollars at stake, parties will seek whatever recourse is available. The contracting parties to the NAFTA should attempt to define areas of recourse that are fair and a process that is not subject to abuse.

#### ***IV. Diversion of Water***

Fears about the impact of the NAFTA on Canada's water resources was a major obstacle in the passage of the NAFTA. To address Canadian concerns on water, a meeting was held between the three contracting nations which produced a trilateral declaration on water. This declaration made it clear that Canada's fear of the use of the NAFTA as a way to obtain forced exports of Canadian water were unfounded. Canada insisted on a clear statement from Mexico and the United States to that effect.<sup>25</sup> The declaration states that the NAFTA does not create any right to the natural water resources of any the NAFTA party. They also clarify that nothing in the NAFTA would oblige any the NAFTA party to either exploit its water for commercial use or begin exporting its water in any form.<sup>26</sup> The declarations explain that water in its natural state in lakes, reservoirs, aquifers, water basins, and the like is not a "good" or product, is not traded, and therefore is not and never has been subject to the terms of any trade agreement.<sup>27</sup>

The anxiety over water resources stems from the fact that although there is a trilateral agreement, there is nothing in the NAFTA to prevent exportation of bulk water to the United States. Without any preventive language in the NAFTA, many feel that some of the provinces in Canada will sell their water to the United States. Critics of the NAFTA charge that once this is done, it will be difficult to stop. Article 309 of the NAFTA explicitly states:

No Party may adopt or maintain any prohibition or restriction on the importation of any good destined for the territory of another party, except in accordance with Article XI of the GATT, including its interpretive notes, or any

23. MacLaren, *supra* note 21, at 1131.

24. MacLaren, *supra* note 21, at 1131.

25. Canadian, *supra* note 8, at 2051.

26. Canadian, *supra* note 8, at 2051.

27. Canadian, *supra* note 8, at 2051.

equivalent provision of a successor agreement to which all Parties are party, are incorporated into and made part of this agreement.<sup>28</sup>

Opponents of the NAFTA argue that the NAFTA will allow the United States to take water from Canada through large scale river diversions and exports in order to supply parched areas in the midwestern United States.<sup>29</sup> To support their argument, opponents cite The Water Supply For The Saskatchewan-Nelson Basin as one project that would link various rivers and lakes in Western Canada in order to supply water to the United States.<sup>30</sup> The Water Supply For The Saskatchewan-Nelson Basin is a nine volume report commissioned in 1967 and completed in 1972 by the Prairie Provinces Water Board (PPWB) at a cost of ten million dollars. It lists twenty-three diversion projects and some fifty-five dam schemes. Many see the report as the first step of a larger planning process of diverting Canadian water to the United States.

If water (once diverted) were to be named a "good" under the NAFTA, article 309 indicates that Canada would not be able to cut off water shipments should they ever start.<sup>31</sup> Canada's involvement in the NAFTA would compel the Canadian government to treat the United States the same way it treats its own citizens. Simply, the NAFTA ensures that Canada cannot cut off exports of a good for conservation reasons unless Canadians face similar restrictions. Canadian officials who were proponents of the NAFTA describe claims that the NAFTA gave the United States or Mexico any right to exploit Canadian water as "absurd puffery." Officials stated that the government's 1987 Water Policy Act specifically prohibits large-scale exports of water through inter-basin transfer or diversion.<sup>32</sup>

Many fear that large scale diversions and bulk exports of water would have a devastating effect on the ecology of Canada.<sup>33</sup> Environmentalists list a number of consequences including possible climatic changes in and around the area of large diversion and storage areas, erosion, and destruction of large tracks of river bank ecosystems.<sup>34</sup>

While some provinces have proposed legislation to prevent large scale transfers of water out of their drainage basins, there does appear to be some basis for Canadian fears. For example, the province of Alberta has constructed a network of dams that only make sense if there is a plan to eventually sell water to the United States. Environmentalists suspect that the construction of certain dams in Alberta are designed to eventually carry out the plans of an old government program. This program was The Prairie Rivers Improvement Management and Evaluation plan (PRIME) proposed by the Social Credit

28. North American Free Trade Agreement, Texts of Agreement, Implementing Bill, art. 309 (1993).

29. Don Sullivan, *Divine Intervention: the great Canadian water supply proposal*, Canadian Dimension, August 1994, at 17.

30. Sullivan, *supra* note 29, at 17.

31. See also Article 301 in NAFTA. National Treatment: "Each party shall accord to investors of another Party treatment no less favorable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments. NAFTA, art. 1102(1), 32 I.L.M. at 640(?).

32. Canadian, *supra* note 8, at 2051.

33. Sullivan, *supra* note 29, at 17.

34. Sullivan, *supra* note 29, at 17.



government 25 years ago. It proposed diverting northern Alberta water to the drier south one river basin at a time through 13 dams and 11 canals.<sup>35</sup>

The PRIME scheme was ordered destroyed under the Lougheed Conservatives, who came to power partly on an anti-PRIME platform in 1971, but many say that PRIME did not die. An October 25, 1979 memo from then assistant deputy minister of Alberta Environment Peter Melnychuk to transportation minister Henry Kroeger read:

It should be noted that any dams and reservoirs being planned and built now, such as the Dickens Dam on the Red Deer River, are being located such that they will 'fit,' be effective, and serve as part of the eventual concept of inter-basin transfer of water.<sup>36</sup>

Stage one of PRIME called for the construction of three dams, two of which have been completed (the Dickens Dam mentioned above in 1978 and the Oldman Dam in 1993). The Alberta government may be able to protect its water because pursuant to the Natural Resources Transfer Act of 1930, it actually owns it. However, even though Alberta owns the water, there is no legislation in Alberta preventing the diversion of water to the United States.<sup>37</sup>

While many in Canada consider the concerns about Canadian water to be frivolous, the concerns seem to have at least some merit. There have been and are plans in Canada calling for the diversion of water through the building of canals and dams. It is also plausible to envision the United States willing to pay the price for Canadian water. The availability of water is decreasing at a significant rate in the United States. Between 1950 and 1980, U.S. water withdrawals grew at a rate of sixty-six percent greater than the population growth.<sup>38</sup> The Ogallala Aquifer, the most important source of ground water in the United States, is being depleted at a faster rate than it can naturally regenerate.<sup>39</sup> The problem is that there is nothing in the NAFTA to prevent Canadians from selling their natural resources. Once this process begins, the road to declaring the diverted water a "good" for purposes of the NAFTA section 309 is a significantly short one.

## V. Provincial Issues

A significant problem regarding Canada's implementation of the NAFTA has been the invasion of certain parts of the agreement upon areas that are considered the jurisdiction of the provinces. This was particularly true of the labor and environmental side agreements to the NAFTA. Prior to the completion of the side agreements, concerns were raised that the Canadian federal government was not in a position to conclude the agreements because of likely invasion on provincial interests. In a letter to Canadian Trade Minister

35. Vicki Barnett, *Let the Rivers Run: Spending millions on dams and irrigation schemes doesn't make sense, critics say-unless we're going to sell thirsty Americans our water*, Calgary Herald, April 17, 1994, at B2.

36. Barnett, *supra* note 35, at B2.

37. Barnett, *supra* note 35, at B2.

38. Sullivan, *supra* note 29, at 17.

39. Sullivan, *supra* note 29, at 17.

Michael Wilson, British Columbia Economic Development Minister David Zirnelt wrote that there were doubts

that the federal government is in a position to the the NAFTA parallel accords negotiations to achieve [improved environmental and labor conditions in North America] and to adequately protect the provinces' interests in areas of provincial jurisdiction.<sup>40</sup>

Despite these concerns, the side accords were agreed to by Canada despite the fact that without provincial consent, Canada would have difficulty in gaining its full rights under the agreements. To remedy this, the federal government negotiated two pacts with the provinces regarding the side agreements. In July, the federal cabinet approved the two pacts and sent them to the provinces for review and approval. In order for Canada to completely exercise its rights under the North American Agreement on Environmental Cooperation (NAAEC), provinces representing at least 55% of Canadian Gross Domestic Product (GDP) must approve the pact. Ontario and British Columbia (which represent more than 45% of Canadian GDP) are not expected to sign onto the pacts in the short term. Until one of these provinces does, Canada will not be able to fully challenge certain practices of Mexico and the United States. There is better news for Canada under the North American Agreement on Labor Cooperation (NAALC). Under the NAALC, the province agreeing to the side pact must contain only 35% of the work force covered by any labor law in question.

Although the provincial pacts were approved by the federal cabinet in July, politics delayed the federal government from exerting too much influence on the provinces to sign the pacts. The political situation that caused this delay was the scheduled September 12 elections in Quebec. The leading opposition party in Quebec (Parti Quebecois) at the time advocated the independence of Quebec from the rest of Canada. It was felt that the pushing of the pact during the campaign would give the opposition party unnecessary fuel to add to the secessionist flames. Indeed, throughout the implementation of the NAFTA, the federal government had been careful to include Quebec.

For example, in late March 1994, Montreal was named as the headquarters for the Secretariat of the North American Commission for Environmental Co-operation. Although the agency only created about thirty jobs, it was sought by twenty-five cities. A political stir was caused after it was hinted that Montreal was selected over Toronto because Quebec leadership supported the NAFTA while Ontario leadership opposed it. Some saw the naming of Montreal as the headquarters as a way of appeasing Quebec to remain a part of Canada. One member of parliament, speaking on the condition of anonymity complained that "[u]ntil the referendum [on Quebec's independence] is over, we're going to be kissing [Quebec's] butt so much it won't be funny."<sup>41</sup>

In the Quebec elections, the separatists Parti Quebecois won a strong majority in Quebec's national assembly, but managed only a very small margin of victory in the popular vote. The rise to power of the Parti Quebecois has raised speculation about whether an independent Quebec could accede to the NAFTA. Quebec was pro-the NAFTA and would want to accede, but Canada might decide to object for political reasons and the United

40. 10 I.T.R. 16, p. 673 (April 21, 1993).

41. Sandro Contonta, *Ontario's 97 MPs Accused of Wimping Out*, Toronto Star, April 2, 1994, at B4.

States has not offered a strong endorsement for accession by Quebec. Amid reports that the Clinton administration had assured Parti Quebecois leader Jacques Parizeau that the United States would not interfere with an independent Quebec's effort to accede to the NAFTA, State Department spokesman Michael McCurry reported that

[c]ontrary to some press reports, the United States has given no assurances on the NAFTA accession to any party. Such an action would involve numerous legal issues. Any discussion of Quebec and the NAFTA accession would be purely hypothetical.<sup>42</sup>

The difficulties of Quebec acceding to the NAFTA and the possibility of it becoming isolated from the benefits enjoyed under the NAFTA by its fellow North American countries could have some influence on the upcoming referendum on Quebec independence.

## VI. *Canada's Vision of the NAFTA*

Quebec is not the only potential new the NAFTA partner. Canadian officials have been outspoken about their desire for the NAFTA to add new partners. Canada feels that expansion of the NAFTA is preferable to procession by a series of bilateral agreements between the members of the NAFTA and non-contracting parties. International Trade Minister MacLaren has stated that Canada would be willing to extend the NAFTA to European countries. MacLaren stated "Canada will do what it can to facilitate the broadening of the agreement and we will continue to assert that future the NAFTA partners need not be limited solely to Latin America."<sup>43</sup> A policy paper written by Keith H. Christie in January 1994 is consistent with Canada's desire to expand the NAFTA beyond the Americas. Christie, who was heavily involved in the the NAFTA negotiations, listed Korea as a prime candidate for the NAFTA accession. Other countries listed included Australia, Argentina, Chile, Columbia, and New Zealand.

In addition to the expansion of the NAFTA, Canada, as discussed above, desires to define subsidies more clearly and develop more adequate safeguards for dealing with dumping. At the height of the wheat dispute, International Trade Minister MacLaren, while criticizing recent United States actions, made a statement that reflects the Canadian vision of the NAFTA: "... the NAFTA is in a somewhat uncertain position at this time, on whether it must either move forward — deepening its rules as well as broadening its membership — or risk slipping backward."<sup>44</sup> For Canada, this forward move appears to be a move away from domination of Canada's foreign trade by the United States.

42. *U.S. Denies Giving Assurances to Quebec's Accession to NAFTA*, 11 I.T.P. 31, p. 1207 (Aug. 3, 1994).

43. *Canada Willing to Expand NAFTA to European Countries*, 11 I.T.R. 19, p. 755 (May 11, 1994).

44. *MacLaren Says NAFTA Success Depends on New Rules, New Members*, 1 Inside NAFTA 11, p. 1 (Jun. 1, 1994).